UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/1997/SR.8
1 May 1997

ENGLISH
Original: FRENCH

COMMISSION ON HUMAN RIGHTS

Fifty-third session

SUMMARY RECORD OF THE 8th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 14 March 1997, at 10 a.m.

Chairman:	Mr. STROHAL (Vice-Chairman)	(Austria)
later:	Mr. SOMOL (Chairman)	(Czech Republic)

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GE.97-10983 (E)

In the absence of Mr. Somol (Czech Republic), Mr. Strohal (Austria), Vice-Chairman, took the Chair.

The meeting was called to order at 10.25 a.m.

STATEMENT BY MR. VARTAN OSKANIAN, DEPUTY MINISTER FOR FOREIGN AFFAIRS OF ARMENIA

1. Mr. OSKANIAN (Armenia) reviewed the progress made by Armenia since it had become independent and described the objectives it had set itself. Having chosen democracy, the rule of law and respect for human life and dignity, Armenia had, through a referendum in 1995, adopted the Constitution required to put those choices into practice. It had also embarked on reforms of its social, political, legislative and judicial infrastructures. Its receipt of special guest status in the Council of Europe demonstrated that the States members of that organization acknowledged its commitment to the task it had undertaken.

2. In order to anchor its reforms firmly in reality and become a full member of the Council, Armenia was endeavouring, on the one hand, to rationalize its economy and transform it into an attractive free-market economy, and, on the other, to develop the appropriate legislative framework, with the assistance of the Venice Commission of the Council of Europe and the Office of Democratic Institutions and Human Rights of the Organization for Security and Cooperation in Europe (OSCE). It was also strongly emphasizing education for citizenship and human rights education for civil servants, members of the Government and the general public.

3. Armenia also had to resolve the problems arising out of the conflict in Nagorno Karabakh, in other words, the inflow of refugees and the presence of prisoners of war on both sides. Armenia had taken in all the refugees from Azerbaijan and, with the assistance of the United Nations High Commissioner for Refugees (UNHCR) and the International Committee of the Red Cross (ICRC), had begun to assist and repatriate the migrants who had fled the economic crisis. Thanks to the mediation of the Russian Federation and of ICRC, there were no longer any prisoners of war in Armenia. Unfortunately, the same could not be said of Azerbaijan.

4. One of his Government's priorities was to protect the rights of minorities. The Constitution afforded protection to those collective rights, which should be upheld with the same vigour as individual human rights. Respect for the rights of minorities was a commitment to peace.

5. At a time when some States were using weapons of mass destruction against their own citizens, mankind as a whole should resist the temptation to sink into fatalism and should act to ensure respect for the principle of self-determination and to denounce and prevent the crime of genocide. Denial of the right to national self-determination should be considered a violation of fundamental human rights. In particular, support should be given to the right to self-determination of the people of Nagorno Karabakh, an overwhelming majority of whom had voted for sovereign independence in response to the pogrom they had suffered in 1988. Armenia was all the more determined to

support that cause because more than one and a half million Armenians had been killed in a genocide in 1915, a fact which many Governments still failed to recognize. Genocide was the denial of the right to survival, and the accumulation of all kinds of human rights violations inevitably led to genocide. It was imperative to learn the lessons of history and to prevent new genocides.

6. With the disappearance of the polarization characteristic of the cold war, Armenia had all the more difficulty in finding its place in the world because it lay at the crossroads of three civilizations: those of Europe, the Middle East and Asia. However, as its eyes were turned to the future, it had objectively assessed political and economic trends and circumstances and had decided to build a modern and viable country, a State governed by the rule of law and a liberal and democratic society whose goals were growth and development.

DEPARTURE OF MR. JOSÉ AYALA-LASSO, UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS

7. Mr. KRAVETZ (El Salvador), speaking on behalf of the Group of Latin American and Caribbean States, paid tribute to the activities of the United Nations High Commissioner for Human Rights. The post which had been established by General Assembly resolution 48/141 in the wake of the World Conference on Human Rights, had filled a gap in the United Nations system. Mr. Ayala-Lasso had successfully transformed it into a well-established institution. He was also responsible for a policy based on consultation, for the development of bilateral or multilateral preventive diplomacy and for the establishment of human rights offices in numerous countries. It would be the responsibility of the international community to provide his successor with the means of continuing that work. The manner in which Mr. Ayala-Lasso had discharged his functions was an honour to the Latin American and Caribbean region. As he prepared to take office as Minister for Foreign Affairs of Ecuador, all the countries in the region thanked him and wished him every success.

8. Mr. BAICHOO (Observer for Mauritius), speaking on behalf of the Group of African States, paid tribute to the activities of Mr. Ayala-Lasso and thanked him, in particular, for having always given pride of place to Africa. He recalled that, in the days following his appointment, the High Commissioner had been faced with the crisis in Rwanda and then with the deteriorating situation in Burundi. The African countries were grateful to him for having constantly sought to establish a dialogue with them and with the Organization of African Unity (OAU), for having visited several of them and for having been to the Great Lakes region five times, for having set up four offices in Africa out of 12 throughout the world, and for having assigned to Africa one quarter of the funds of the technical assistance programme.

9. Mr. MBA ALLO (Gabon) associated himself with the statement by the coordinator of the African States and thanked Mr. Ayala-Lasso for having laid the foundations for cooperation between the High Commissioner for Human Rights/Centre for Human Rights and Gabon, which he had visited, and for his efforts to establish an authentic human rights culture in Central Africa.

10. Mr. HÖYNCK (Germany), speaking on behalf of the Group of Western European and Other States, said that the first United Nations High Commissioner for Human Rights had given shape and substance to the post. His action had been characterized by quiet diplomacy based on dialogue and respect for States, by preventive diplomacy through field missions in regions or countries threatened by crisis and by the reform of the Centre for Human Rights, which would strengthen the agency's effectiveness and contribute to coordinating the various human rights activities.

11. Mr. ALI (Malaysia), speaking on behalf of the Group of Asian States, expressed his gratitude to the High Commissioner for the way in which he had carried out his duties in a new post in which he had had to advance through largely uncharted territory.

12. Mr. SKODA (Czech Republic), speaking on behalf of the Group of Eastern European States, thanked Mr. Ayala-Lasso for his work as High Commissioner for Human Rights, which had included visits to numerous countries, increasingly important field operations to ensure protection for human rights and the reorganization of the Centre for Human Rights.

13. Ms. GERSON (United States of America) recalled that the establishment of the Post of United Nations High Commissioner for Human Rights had been the fulfilment of a desire to redress the imbalance between the high priority assigned to human rights in the Charter and the paucity of the resources allocated to it. Her Government had played an important role in the establishment of the post, and noted with regret the departure of Mr. José Ayala-Lasso, who deserved praise for his tireless devotion to the cause of human rights throughout the world and his efforts to restructure the Office of the High Commissioner/Centre for Human Rights.

14. Mr. van WULFFTEN PALTHE (Netherlands) associated himself with the statement made by the coordinator for the Group of Western European and other States. The post of United Nations High Commissioner for Human Rights had been a pipe dream for many years but, thanks to his personal qualities, Mr. Ayala-Lasso had been able to transform it into a well-established and active institution open to dialogue with States.

15. Mr. WU Jianmin (China) said that he fully endorsed the statement by the representative of the Group of Asian States. He particularly thanked the High Commissioner for having chosen dialogue and cooperation rather than confrontation and selectiveness. It was to be hoped that his successor would continue along the same path, and he wished him every success in the future.

16. Mr. AKRAM (Pakistan) said he wished to associate himself with the congratulations extended to the High Commissioner by the coordinator of the Group of Asian States. Mr. Ayala-Lasso would be remembered not only as the first United Nations High Commissioner for Human Rights, but also as an accomplished statesman. Despite the difficulties of his task, he had always shown the necessary impartiality and objectivity in addressing human rights issues. By his action and initiatives, he had determined the essential

characteristics of his office, and it was to be hoped that his successor would maintain the extremely high standards he had set. Pakistan was particularly grateful to him for having helped it to solve a number of delicate issues, despite the obvious difficulties.

17. Mr. AYALA-LASSO (United Nations High Commissioner for Human Rights) said that he wished to express his sincere gratitude to all the speakers for their kind words concerning him. All the participants in the Commission's session shared a common destiny - their common commitment to promoting and protecting human rights. For his part, he had endeavoured to put that commitment into practice, in a spirit of cooperation and openness, and he was gratified by the achievements of the previous three years. The progress made concerned a wide range of activities whose purpose was to promote and to protect human rights and fundamental freedoms throughout the world: dialogue with States, good offices missions, promotion of the right to development, the presence of human rights observers in the field, enhanced cooperation with United Nations agencies and programmes and with regional organizations and closer consultation with non-governmental organizations (NGOs), universities and civil society at large.

18. He remained convinced that the cause of human rights was mankind's noblest cause and that it was the responsibility of all to promote the universality of human rights, to reassert their indivisibility and ceaselessly to further the cause of democracy and the rule of law. A courageous and firm reaction to gross and large-scale human rights violations wherever they occurred, was indispensable and everything should be done to prevent them. Lastly, it was essential to broadcast the human rights message to every corner of the Earth. Many challenges still had to be taken up and obstacles overcome. He would regret being unable to take part in the events marking the fiftieth anniversary of the Universal Declaration of Human Rights and in the further activities undertaken in connection with the three ongoing decades - the Decade to Combat Racism and Racial Discrimination, the International Decade of the World's Indigenous People and the United Nations Decade for Human Rights Education - as well as the review, five years after its implementation, of the Vienna Declaration and Programme of Action.

19. He reaffirmed his determination to continue to act on behalf of human rights whether in his own country, Ecuador, in Latin America or wherever his travels might take him. The common destiny to which he had referred would not be attained until arbitrariness and injustice had been abolished, democracy prevailed, poverty and exclusion had been eradicated, freedom reigned throughout the world and human rights were the common language of mankind. His earnest wish was that the twenty-first century should witness the fulfilment of those hopes. For its part, the Commission on Human Rights could be proud of all that it had undertaken and carried out, and of the results it had already achieved. He had been honoured to contribute to the great design the Commission served. He was convinced that the support peoples and Governments would provide for the cause of human rights would strengthen the future of peace, harmony, development and freedom to which mankind aspired and to whose construction the United Nations was dedicated.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS IN THE OCCUPIED ARAB TERRITORIES, INCLUDING PALESTINE (agenda item 4) (continued) (E/CN.4/1997/13-16, 107, 109, 111, 116 and 117)

THE RIGHT OF PEOPLES TO SELF-DETERMINATION AND ITS APPLICATION TO PEOPLES UNDER COLONIAL OR ALIEN DOMINATION OR FOREIGN OCCUPATION (agenda item 7) (continued) (E/CN.4/1997/23 and 24; A/51/392)

20. Mr. KRYLOV (Russian Federation), speaking first of all on agenda item 4, said that he wished to emphasize that the principle of land for peace and the application of Security Council resolutions 242 (1967) and 338 (1973) and of resolution 425 (1978) on the Lebanon were the only means of achieving a comprehensive and just settlement of the Middle East question. The recent Protocol Concerning the Redeployment in Hebron was a welcome development, and his Government also supported the decision to establish joint Israeli-Palestinian agencies that would operate on the basis of mutual regard for the respective obligations, concerns and interests of the two parties. The total lifting of the economic blockade on the Palestinian territories would also be a means of strengthening mutual confidence and combating terrorism, which jeopardized the fundamental interests of both peoples.

21. His Government considered that priority should be given to negotiations on the final status of Palestine, in conformity with the principles defined at Madrid. The Palestinians' aspiration to recognition of their national rights, including the right to self-determination, by that means posed no threat to Israel's interests. The establishment, on a mutually agreed basis, of a Palestinian State would help to strengthen security and good-neighbourly relations between Israelis and Palestinians. The problems of Jerusalem and of the Jewish settlements should be decided through negotiation, on a mutually acceptable basis. In that regard, the decision by the Israeli Government to build a new quarter in East Jerusalem was disturbing.

22. His Government fully associated itself with the international community's efforts to strengthen peace, stability and good-neighbourly relations in the Middle East, and it was in that spirit that it had recently taken part, in Moscow, in discussions with President Arafat and Prime Minister Netanyahu. The Commission on Human Rights also had its contribution to make to the peace process.

23. Regarding agenda item 7, he said that the right of peoples to self-determination was inseparable from the other fundamental principles of international law and that its attainment required the establishment of democracy and recognition for the primacy of human rights and fundamental freedoms. Recently, however, the assertion of that right had all too frequently led to expressions of extremism: aggressive nationalism, discrimination against certain population groups and attempts to establish mono-ethnic States. Radicalization of the right to self-determination was wholly unacceptable. The exercise of that right by a particular ethnic group should not violate the rights and interests of anyone, still less so those of a major component of a region's population. It was only possible to speak of self-determination if a territory's entire population fully enjoyed all its rights and freely took part in democracy, without any form of discrimination,

a concept that was set forth in the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations.

24. The Declaration also stated that the right to self-determination should not be construed as authorizing or encouraging any action which would dismember or impair, totally or in part the territorial integrity or political unity of sovereign and independent States. That provision had been set forth as one of the imperatives for building Europe and reaffirmed in the Vienna Declaration and Programme of Action. General recommendation XXI (48) of the Committee on the Elimination of Racial Discrimination, according to which international law had not recognized a general right of peoples unilaterally to secede from a State, asserted the same principle. The attempts occasionally made to question those countries' territorial integrity in connection with the consideration of the human rights situation in certain countries were incompatible with the Charter of the United Nations.

25. In the Russian Federation, the various ethnic groups had been able to put into practice their right to self-determination by establishing autonomous republics, regions or districts. The Russian authorities were endeavouring, through their legislation, to adapt the concept of self-determination to Russia's multinational circumstances. Thus, in June 1996, the Russian Parliament had adopted the Act on national and cultural autonomy, which enabled the various peoples living in Russia to enjoy various types of national and cultural autonomy.

26. The new Penal Code of the Russian Federation, which had come into force on 1 January 1997, specifically prohibited the use of mercenaries to commit human rights violations and prevent peoples from exercising their right to self-determination.

27. Fulfilment of the right to self-determination depended on respect for democracy - regardless of any ethnic considerations - on recognition of the primacy of law and on the free cultural and national development of peoples, rather than on separatism, violence and aggressive nationalism.

28. Mr. DEMBRI (Algeria), speaking first of all on agenda item 4, said that the Madrid Conference which had laid the foundations for a peace process in the Middle East, and more recently the Oslo Agreements and the Protocol Concerning the Redeployment in Hebron, had raised hopes among the international community that the Palestinian people would shortly recover their legitimate and inalienable rights.

29. Unfortunately, those hopes were currently under threat from Israel's political manoeuvering, its condemnable practices and from its violations of the special status of the Holy City of Al-Quds (Jerusalem). The issue of peace in the region was fragmented into a multitude of subsidiary and prejudicial issues, undermining the overall coherence of attempts to negotiate and thus delaying progress. Even worse, the current Israeli Government was reneging on the solemn commitments made by its predecessors by denying the Palestinians the right to their own State with Al-Quds as its capital, by refusing to withdraw from the Syrian Golan and Southern Lebanon and by pursuing its policy of establishing settlements in the Palestinian

territories. The recent decision to build a new settlement in East Jerusalem to change the city's demographic composition had also met with virtually unanimous reproval from the international community.

30. His Government remained convinced that, for peace to be achieved in the Middle East, it was necessary for Israel totally to withdraw from the Arab territories occupied since 1967 and for a sovereign Palestinian State to be established. All the delaying tactics used to postpone that only means of achieving a settlement should be vigorously condemned by the international community.

31. Turning to agenda item 7, he said that, more than 30 years after the adoption by the General Assembly of the Declaration on the Granting of Independence to Colonial Countries and Peoples (resolution 1514 (XV) of 14 December 1960), Western Sahara remained one of the few parts of the world that was still under foreign domination and occupation, even though a plan for a settlement had been accepted on 30 August 1988 by the two parties to the conflict, Morocco and the Sahrawi people. The plan provided for the organization of a fair and impartial referendum to permit the Sahrawi people freely to decide its destiny. It was the expectation of the referendum which had persuaded the Frente Polisario to agree to suspend its operations in defence of its homeland and to sign a ceasefire with the occupying Power in September 1991. However, the other provisions of the plan had still not been applied on account of the occupying Power's evasions concerning the criteria for identifying and registering the electors, which were designed to deny the Sahrawi people its rights to self-determination and independence. The ceasefire itself came up against carefully maintained obstacles - for example mass population displacements and the building of a dividing wall. Those delays had had harmful consequences for the Sahrawis who were forced to choose between a hand-to-mouth existence in exile and the humiliation of life under foreign occupation.

32. As an observer of the conflict, Algeria had spared no effort to contribute to the region's stability and prosperity, although it remained convinced that, if any progress was to be made, the commitments to the international community had to be respected and, in particular, the parties must take practical steps to prepare for the self-determination referendum and to define, through negotiation, guarantees for the post-referendum period.

33. Mr. Somol (Czech Republic) took the Chair.

34. Mr. TARMIDZI (Indonesia) said that Chapter XI of the Charter of the United Nations and General Assembly resolutions 1514 (XV) and 1541 (XV) clearly set the right to self-determination within the context of decolonization. Throughout the whole period of the anti-colonial struggle, it had been assumed that defending that right essentially meant promoting the establishment of newly independent States, and from that angle, Indonesia had always fully supported the struggle of colonized peoples throughout the world, and particularly in Asia and Africa. In that respect, his Government believed that the implementation of Security Council resolutions 242 (1967), 338 (1973) and 425 (1978) and of all the agreements whose long-term aim was to grant

national independence to the Palestinian people and to establish a Palestinian State, was a prerequisite for restoring peace, security and stability in the Middle East.

35. Indonesia had itself lived under colonial subjugation for almost 350 years and had gained its national independence only some 50 years previously. The ethnic tension it was currently experiencing, under the influence of secessionist and separatist agitators with foreign support, was in actual fact nothing but a legacy of that era. The Indonesian authorities were doing their utmost to preserve national unity, but received little support in their efforts. He asked how Portugal could possibly be allowed to portray itself as the administering authority of East Timor when it had actually left that territory in 1975. Since then, Portugal had continually fomented the civil war by providing clandestine support to FRETILIN. The Commission on Human Rights should take account of all the geopolitical, cultural and economic realities pertinent to the East Timor question. In geographical terms, it was the eastern part of an island that had been arbitrarily divided in the sixteenth century under a treaty between the Portuguese and the Dutch. It was only by bearing in mind those historical facts that the Commission would be able to understand that the Timorese had already fully exercised their right to self-determination by choosing to be integrated into Indonesia and that the vast majority of them had but one wish: to be able to develop their province in peace and freedom.

36. In no case could José Ramos Horta, a former leader of FRETILIN - an organization notorious for its brutality - be considered as the legitimate representative of the people of Timor, even though he had been awarded the Nobel Peace Prize in 1996 jointly with Monsignor Belo.

37. His Government was pursuing its sincere efforts to further the economic, political, social and cultural development of East Timor and to protect cultural and religious rights in that region but it would not allow itself to be subjected to political pressure such as the common position adopted in June 1996 by the European Union. It was prepared, as it always had been, to cooperate with the Secretary-General in identifying a fair and comprehensive solution to the question of East Timor within the framework of a tripartite dialogue. However, it was impossible to turn the clock back; decolonization had taken place and any solution should take that fact into account. On two occasions, in 1987 and 1991, a settlement had almost been found to the question of East Timor, but Portugal had prevented it. He hoped that the visit to East Timor by the Personal Representative of the new Secretary-General would allow progress to be made.

38. Mr. PARREIRA (Angola), speaking on agenda item 7, said, with reference to the report on the question of the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination (E/CN.4/1997/24), submitted by the Special Rapporteur on the question, that the report had not, in his view, any place under agenda item 7. He also regretted that the Special Rapporteur had exceeded his mandate which, in accordance with Commission resolutions 1987/16 and 1995/5 should involve seeking and receiving credible information on the question of

the use of mercenaries "as a means of impeding the exercise of the right of peoples to self-determination". The substance of the report submitted did not comply with that mandate.

39. Moreover, his delegation considered that the communication made by the Secretariat to the General Assembly on the report was a grossly misleading interpretation of it and an intolerable interference by the Secretariat in a legitimate decision by a sovereign State.

40. Angola had been the first State in the world to convict mercenaries in a fair public trial and could pride itself on being party to all the relevant major international legal instruments: it had in particular signed the 1977 OAS Convention for the Elimination of Mercenarism in Africa and was one of the few signatories to the International Convention against the Recruitment, Use, Financing and Training of Mercenaries, adopted by the General Assembly in resolution 44/34 of 4 December 1989. On behalf of his Government, he vigorously urged all those Member States which had not yet done so to sign that extremely important document without delay and thus to make a genuine contribution to promoting universal respect for human rights.

41. Mr. ROSALES DIAZ (Nicaragua) said he ardently hoped that Israelis and Palestinians would finally manage to live in peace after more than half a century of conflict. To help them do so, the international community should provide them with financial support and technical assistance, failing which there was every reason to fear that the various economic and social problems besetting the region would develop into an authentic time bomb. The parties concerned should comply strictly with the principle of "land for peace", and jointly and sincerely continue to implement the Oslo Agreements. Nicaragua knew from experience how important trust was to achieve peace. The peace of the graveyard was never a satisfactory solution.

42. The repeated cordoning off of the occupied Arab territories and measures such as the land seizures and the establishment of new settlements certainly did nothing to foster dialogue. His delegation denounced all human rights violations and acts of terrorism, regardless of who was responsible. It was concerned by the practice of prolonged administrative detention and condemned the recent decision by the Israeli High Court to authorize the use of physical force in interrogations of Palestinian detainees. It urged the Israeli authorities to comply without delay with the recommendations of the Committee against Torture. The Israeli and Palestinian authorities should jointly strike a fair balance between Israel's security and the right of the Palestinian people to self-determination.

43. Mr. GOONETILLEKE (Sri Lanka) said that, although the content of the concept of self-determination had been reaffirmed and specified in the Vienna Declaration and Programme of Action, it was still being misinterpreted by some people. While it was legitimate for certain territories still under foreign domination or occupation to demand their right to self-determination, the same was not true of ethnic minorities and groups living in multi-ethnic countries that were ruled by democratic principles and that fully enjoyed the right to self-determination.

44. The Vienna Declaration and Programme of Action also recognized that some peoples living in independent and sovereign States were oppressed, and were thus justified in demanding recognition of their right to self-determination. The same instruments specified, however, that they should do so by lawful means - thereby excluding the possibility for them to attack civilians or their property or to resort to terrorism - and without jeopardizing the territorial integrity or political unity of sovereign and independent States. The responsibility of Governments was to conduct themselves in conformity with the principle of equal rights and self-determination for peoples, and to represent their country's population as a whole. As the former Secretary-General, Mr. Boutros Boutros-Ghali, had said, if every ethnic, religious or linguistic group claimed statehood, there would be no limit to fragmentation, and peace, security and economic progress for all would be ever more difficult to achieve. The solution lay in respect for human rights and, in particular, for the rights of minorities.

45. Since the end of the cold war, claims to the right to self-determination - with no rational basis - by certain ethnic groups living in independent and sovereign States had become increasingly pressing. They constituted not only a risk of destabilizing the States concerned, but also a threat to international peace and security which was all the greater since some groups had no hesitation in resorting to terrorism. A clear distinction had to be made between the right to self-determination - the circumstances in which it was justified for a minority to attempt to leave an existing State - and the aspirations of certain groups to secede. The international community had a duty to assist States whose sovereignty and territorial integrity were under threat to cut out the cancer of terrorism concealed beneath the mask of the call for "self-determination".

46. Sri Lanka, which was grappling with a brutal insurrection and a terrorist campaign, was such a State. A group of separatist terrorists, claiming the right to self-determination for an ethnic group it purported to represent, had prevented that community's members from democratically electing their representatives and thus from actually exercising that same right. It had also rejected all the Government's peace offers, because its real aim was to destabilize the State by terrorism.

47. He hoped that the Commission would not be misled, as certain well-intentioned NGOs had been, by that terrorist group's spurious claim to the right to self-determination.

48. Mrs. EL HAJJAJI (Observer for the Libyan Arab Jamahiriya) said that, whereas the Special Rapporteur had previously duly described Israeli practices that violated the fundamental rights of the Palestinians and objectively recorded that Israel was destroying houses, exploiting water resources that belonged to the Palestinians, establishing settlements and Judaizing certain towns in order to destroy the Palestinian heritage, it appeared from his latest report (E/CN.4/1997/16) that he believed that the commitments made to achieve peace were actually being put into practice. Unfortunately, nothing could be further from the truth. For the peace process to be successful, it was necessary to take a hard look at the facts and to denounce breaches of those agreements, for to deny the facts was to play the game of those trying to limit the content of the commitments made.

49. According to the Special Rapporteur, no pressure would persuade Israel to change its attitude; that was a defeatist attitude which should be rejected because, in the meantime, the Palestinians were suffering as a result of the demands, extremism and human rights violations which formed Israel's policy.

50. Furthermore, the Special Rapporteur should not have placed Israel - an occupying military authority with a seat in the United Nations - on the same footing as the Palestinian Authority, whose powers were limited and which was subject to all kinds of internal and international pressure.

51. In practice, there was nothing in the field to indicate that respect for the fundamental rights of the Palestinians had improved since the territories had been occupied by force and transformed by the establishment of settlements there.

52. Lastly, she denounced the support Israel received from the United States. The United States certainly spoke of defending the Palestinians, but actions spoke louder than words. Even though some States had resisted political and economic pressure and endeavoured to bring Israel to reason in an international forum, the United States had interposed its veto. Israel could thus continue to employ every means, including terrorism, in pursuit of its objectives: to transform Palestine into a land without people and the Palestinians into a people without land. In addition, the Palestinians, who had been refugees for half a century, were henceforth a card for candidates in the United States presidential elections to play in order to gain votes from the Jewish lobby.

53. Mr. RAMLAWI (Observer for Palestine) said that there was no law capable of preventing a people from exercising its right to self-determination, to which all the world's peoples were entitled. The right of the Palestinians to self-determination and to build their own State on their national territory had been affirmed and reaffirmed since 1947 in numerous resolutions of the General Assembly, which had also emphasized that the exercise of that right was indispensable for the realization of a just and lasting peace in the Middle East. The international community would not have adopted all those resolutions if it had not been aware that there was a conspiracy against the Palestinians, dating back to the 1917 Balfour Declaration. Clearly, the Palestinians would be unable to exercise their inalienable right to self-determination while the foreign military occupation of their territory continued; the occupation was a war crime and a crime against the peace and security of mankind under international law.

54. The peace process initiated at Madrid was based on the implementation of the principle of "land for peace" and the application of Security Council resolutions 242 (1967) and 338 (1973) in order to establish a comprehensive peace in the region. Any action departing from that fundamental objective could only be interpreted as a desire to continue the war. That was precisely what Israel was doing by disregarding the agreements reached and acting resolutely against the provisions made. Nevertheless, the Palestinians were determined to exercise at any cost their right to self-determination and would continue to struggle to achieve it. The Commission on Human Rights could undoubtedly contribute through its action to enabling them freely to determine their destiny like all other peoples in the world.

55. Mr. MOUSSAEV (Observer for Azerbaijan) said that he wished to draw the Commission's attention to a serious ongoing problem that could lead to large-scale violations of human rights and to the destabilization of a whole country, or even of entire regions. He was referring to the attempts being made by some States with territorial ambitions to interpret the right to self-determination as the right for any ethnic group to set up its own State and thus to secede. To conceal their real aims, they sometimes denounced the discrimination practised against a minority living on the territory of another State. However, quite frequently the violations in question could be accounted for by the provocative attitude of some minorities, supported by external forces, and it even happened that it was the fault of representatives of the minorities themselves who found themselves in a position of strength in certain countries.

56. It should be remembered that, although international law upheld the right of peoples to self-determination, it also stipulated that the right could not be exercised on the basis of ethnic, religious or other criteria, in other words that it did not apply to minorities, even in the form of "internal autonomy", within a State. It was possible to speak of autonomy only in respect of States, and not of minorities living within a State. When a State granted a minority living on its territory the right to self-government, it frequently did so to resolve certain specific conflicts, to allow the minority to preserve its culture and pursue its own way of life or, in the case of a multi-ethnic State, to ensure peaceful coexistence between its various minorities. Accordingly, the rules of international law should be strictly applied and a clear distinction made between the right of a people to self-determination and the aspirations of certain groups to secede. To settle a conflict, it was first of all necessary to ensure respect for internationally recognized fundamental rights. That was the vocation of the Commission on Human Rights, and it was to be hoped that its efforts in that area would be crowned with success.

57. Mr. NASSERI (Observer for the Islamic Republic of Iran) said that the support received from certain Western countries had enabled Israel to continue to perpetrate with impunity large-scale violations of the fundamental rights of the Palestinians and Arabs. Under the pretext of not wishing to jeopardize the peace process which had begun at Madrid, a blind eye was being turned to the atrocities committed since the first agreements had been reached. However, one day it would have to recognize that those agreements were in any case an unjust and biased formula imposed upon the Palestinians for the sole purpose of ending Israel's political and economic isolation. The fact was that the real power remained with Israel, especially in sensitive areas such as defence and foreign affairs, and Israel was thus able to impose its will in the so-called autonomous areas.

58. The decision to build a new Jewish settlement in East Jerusalem was just one more betrayal of the Oslo Agreements, although it was likely to have serious consequences because the fate of Al-Quds al-Sharif (Jerusalem) was one of the main concerns of Muslims. The use by the United States of its veto to prevent the adoption of a resolution by the Security Council showed that that country had no respect either for the religious convictions of the Muslims or for their dignity. It was proof that the United States had no genuine interest, as it asserted, in peace, and that its only aim was to defend

Israeli interests, which was why it did not want the Europeans to become involved. Accordingly, his delegation thought that there was no point in submitting a draft resolution to the Commission requesting Israel to reverse its decision. The situation would only get worse until the Muslim countries united their political and economic forces to end the humiliation.

59. Mr. BENJELLOUN-TOUIMI (Observer for Morocco) said he regretted that the Commission's time was being wasted on sterile discussions of the question of Western Sahara. It was obvious that Morocco was not responsible for the current deadlock in the Settlement Plan adopted by the United Nations, as it had ceaselessly demonstrated its goodwill and determination to continue the process of settlement that had been begun and to cooperate therein honestly and constructively. All its initiatives had come up against the opposition of the other party and the latter's obstinate rejection of proposals designed to achieve progress. The remarks made by an observer whose status required him to demonstrate greater neutrality, were likely to exacerbate feelings and were not conducive to restoring the necessary calm for the issue to be definitively settled. It was understandable that a State should wish to defend the principle of the right of peoples to self-determination, which was a hallowed principle of international law, but in so doing it should set an example and not disregard those problems that might arise on its own territory.

60. There was every indication that the economic and social situation in Western Sahara was improving, which was certainly not the case in the refugee camps at Tindouf in Algeria, where conditions were deplorable. Those refugees needed assistance, but care should be taken to ensure that the humanitarian assistance provided actually reached its destination.

The meeting rose at 1 p.m.

UNITED
NATIONS

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Economic and Social
Council

Distr.
GENERAL

E/CN.4/1997/SR.9
20 March 1997

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS

Fifty-third session

SUMMARY RECORD OF THE 9th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 14 March 1997, at 3 p.m.

Chairman:	Mr. STROHAL (Vice-Chairman)	(Austria)
later:	Mr. SOMOL (Chairman)	(Czeck Republic)

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GE.97-11007 (E)

In the absence of Mr. Somol (Czech Republic), Mr. Strohal (Austria), Vice-Chairman, took the Chair.

The meeting was called to order at 3.15 p.m.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS IN THE OCCUPIED ARAB TERRITORIES, INCLUDING PALESTINE (agenda item 4) (continued) (E/CN.4/1997/13-16, 107, 109, 111, 116 and 117)

THE RIGHT OF PEOPLES TO SELF-DETERMINATION AND ITS APPLICATION TO PEOPLES UNDER COLONIAL OR ALIEN DOMINATION OR FOREIGN OCCUPATION (agenda item 7) (continued) (E/CN.4/1997/23 and 24; A/51/392)

1. Mr. LAMDAN (Observer for Israel) said that the fact that, 24 hours previously, seven innocent Israeli schoolgirls on a school outing had been shot dead and six others wounded was an indication of the human rights situation in the area of Israel.

2. His Government had yet again been singled out for criticism on its human rights record in the so-called occupied territories, while the massive human rights violations of other Governments were overlooked. Until the "rules of the game" were changed, Israel could have no confidence whatsoever in the Commission.

3. The first rule that needed to be changed was the one that allowed gross violators of human rights to sit on the Commission, and yet excluded Israel, from membership, contrary to the principles of the Charter of the United Nations and international law, which assumed sovereign equality.

4. The second was the totally unjustified inclusion of item 4 in the Commission's agenda, a blatantly political decision, despite the fact that a majority of members of the Commission, was in favour of dropping it.

5. The third rule was the automatic readoption of no less than five anti-Israel resolutions in the course of every session, which constituted a crude attempt to influence negotiations with the Palestinians and, in due course, with Syria and Lebanon. The role of the Commission was surely to support the peace process and not to hamper it.

6. The fourth rule gave the Special Rapporteur a uniquely one-sided mandate of unlimited duration and with a predetermined outcome. Without, at the very least, a thorough review of that mandate, Israel would not be able to cooperate with the Special Rapporteur.

7. The fifth rule confined the examination of human rights abuses in the Middle East to Israel, and ignored the abysmal human rights records of its near neighbours. In that connection, he cited reports by the United States and Canadian Governments and by respected international non-governmental organizations (NGOs), which had found repeated patterns of gross and systematic violations of human rights throughout the Middle East.

8. Whatever the Special Rapporteur might say, the Palestinian Authority could not be absolved of all responsibility for human rights abuses in the territories under its control. No fewer than 98 per cent of the Palestinians living in the territories were under the day-to-day administration of the Palestinian Authority, which had committed itself, in the Interim Agreement on the West Bank and the Gaza Strip of 1995, to respect and implement human rights. A climate of oppression and intimidation reigned in the self-governing areas; torture, beatings and arbitrary arrests were commonplace, while human rights activists and journalists were harassed and silenced. It was high time that the Commission concerned itself with the dismal human rights record of the Palestinian Authority.

9. Recalling the unique circumstances that had forced Israel into an occupation it had never sought, he said that, in the specific case of closures his Government had been forced to act in order to protect its citizens, as a consequence of outrages carried out by terrorists. The Government was, in fact, steadily lifting the restrictions on movement but the Palestinian Authority must honour its side of the Oslo Agreements in full.

10. The accusation that the Israeli Supreme Court had legalized torture was demonstrably false. Israeli law forbade all forms of torture and ill-treatment, and certain severely circumscribed measures, that could be applied only in extreme cases where there were strong grounds for believing a suspect had information that could save lives, could in no way be legally defined or interpreted as "torture" under any international conventions.

11. The question of the housing projects planned for Jerusalem was not a human rights issue; the city needed housing, and approximately the same number of housing units would be built for Jews and for Arabs. The Oslo Agreements contained no requirement to refrain from building in the city. About three quarters of the land designated for the projects was Jewish-owned. As Jerusalem had been the capital of the Jewish people for 3,000 years, the building projects could not be construed as changing the status of Jerusalem.

12. Whether or not the Commission was prepared to change the rules of the game, and he appealed to it for at least a modicum of fairness and objectivity, Israel would remain a free, open and democratic society, committed to peace on the basis of the principles agreed at the International Peace Conference on the Middle East in Madrid.

13. Mr. MAACHOU (Arab Lawyers Union) said that the Israeli authorities continued to violate human rights and flout international law by, amongst other things, sanctioning torture. The Israeli Government had turned its back on the peace process by allowing new settlements to be built, particularly in Jerusalem, which it was trying to isolate from the West Bank, in violation of international law, international conventions and the agreements entered into with the Palestinian Authority.

14. As usual, the Israeli Government paid no heed to international opinion, but simply pressed ahead with its plans to change the nature of Jerusalem and so pre-empt the final status of negotiations. He, too, hoped that item 4

could be removed from the Commission's agenda - when the Palestinian people had regained the right to self-determination, with Jerusalem as their capital, in a region where a just peace reigned.

15. Mr. HALINEN (Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967) began his concluding remarks by offering his sincere condolences to the people and Government of Israel following the most recent loss of innocent lives in the Middle East.

16. He had tried to be factual and objective in his report, reserving the word "condemnation" for terrorism and acts of violence. No purpose would be served by unnecessarily antagonizing or isolating any of the parties involved. He had found the debate on item 4 unexpectedly calm and constructive in the face of increased tension in the Middle East, and he appreciated the support voiced for his efforts to clarify the concept of human rights in the context of the peace process and to establish a comprehensive human rights culture.

17. Human rights were an integral part of socio-economic development, and the defence of human rights could not await progress in the peace talks or economic advances in the occupied territories. It was therefore encouraging that the efforts of the international community to assist the Palestinian people were focusing on their economic and social needs and, crucially, the rule of law. He welcomed the prompt reaction by the High Commissioner and Centre for Human Rights to the request by the Palestinian Authority for technical assistance, which would lead to the establishment of an office in Gaza.

18. The prevention of human rights violations and the promotion of human rights in the Palestinian territories required concerted action: the Commission must consider reform of its agenda and methods of work and review his own mandate, while the Israeli and Palestinian peoples must recognize that they would have to live together in peace, which required the will and courage to create trust and build confidence.

19. Mr. TRAMBOO (International Human Rights Association of American Minorities) said that the concept of democratic majority rule needed to be refashioned to guarantee minority rights. Unfortunately, the largest democracy in the world - India - had sought to minimize the right to self-determination in Jammu and Kashmir, subjecting the Kashmiri nation to a reign of terror for 50 years. No Indian-sponsored elections could override that right without the freely given consent of the people of Jammu and Kashmir.

20. When a minority demanded differential treatment for the purpose of achieving equal status, it was necessary to distinguish between matters of common concern and matters specific to the minority; in all matters of common concern, the principles of equality and non-discrimination must apply.

21. Mr. GONZALES (International Indian Treaty Council) said that the human rights and fundamental freedoms of indigenous peoples continued to be violated daily as a result of the denial by nation States of their identity as distinct peoples with the inherent right to self-determination, although, under the Charter of the United Nations and the International Bill of Human Rights,

it was peoples, not nation States, that had the right to self-determination. Recognition of the right of indigenous peoples to self-determination would not cause the collapse of any nation State. Nevertheless, nation States had, throughout history, failed to honour the treaties they made with indigenous peoples.

22. A recent example was that of the Mexican Government, which appeared to have reneged on its 1996 agreement to grant autonomy to the indigenous peoples of Chiapas. He urged that Government to honour its agreements.

23. The Commission should take immediate steps to reverse hundreds of years of colonization and genocide by formally recognizing indigenous peoples as peoples, by endorsing the current text of the draft United Nations declaration on the rights of indigenous peoples, and by implementing in full the right to self-determination of indigenous peoples as recognized under international law.

24. Ms. RUPPRECHT (International Institute for Peace) said that attempts were being made by subversive groups to pervert the meaning of the principle of self-determination with the tacit or even overt support of countries seeking to destabilize their perceived adversaries. Thus, Pakistan had been involved in a sustained campaign of violence using terrorists and mercenaries in the Indian State of Jammu and Kashmir.

25. It challenged the elected government of Jammu and Kashmir on the grounds that voting had taken place under the protection of Indian security forces, although the need for such protection was demonstrated by daily terrorist attacks. After 50 years of occupation, however, the Kashmiris in areas under Pakistan's control still did not have the right to vote, they were living in Pakistan's last colony and wanted to be heard. The Jammu and Kashmir National Liberation Front had recently presented a memorandum expressing concern about the role of foreign agencies and elements fostering religious hatred in the region.

26. If Pakistan was sincere in claiming to respect the Kashmiris' human rights, it should admit responsibility for the trauma suffered by the Kashmiri people since 1947, when it had illegally occupied part of their state. The international community must persuade Pakistan to allow the people of the Northern Areas to determine their own future by electing their own representative government.

27. Mr. SAFI (International Islamic Federation of Students' Organisations) said that the people of the entire State of Jammu and Kashmir had acquired the right to self-determination at the time of the partition of India. Several Security Council resolutions explicitly prescribed that the final disposition of the state should be made in accordance with the will of its people, expressed through a referendum conducted under United Nations auspices. India's contention that a referendum was no longer necessary in view of the elections that had been held in the Indian-held part of Kashmir was invalid, since such elections could not be considered a substitute for the promised referendum in the entire State of Jammu and Kashmir. Moreover, the bilateral agreement between India and Pakistan (the "Simla Accord") could not override the legitimate rights of the people of Jammu and Kashmir, who were not party

to that agreement. Both India and Pakistan should recognize and respond to the call for self-determination for the people of Jammu and Kashmir, within the 1947 boundaries of the state, and the United Nations should reactivate its role as catalyst in the process.

28. Mr. Somol (Czech Republic) took the Chair.

29. Mr. ALI KHAN (World Peace Council) said that the creation of independent nations in the aftermath of colonial rule had left many unresolved disputes. In situations of that kind, it was advisable to leave the people concerned to find their own solutions. The tendency of outside parties to proffer advice and suggest formulations was an unfortunate one which could actually impede normalization. Attempts to influence the course of events in independent nations, however well-meaning, represented a new and more dangerous form of colonialism.

30. Kashmir was a case in point. Instead of allowing the tentative beginnings of cooperation to take shape, some outsiders seemed incapable of resisting the temptation to propose solutions based on quite irrelevant analogies. For example, the suggestion that India and Pakistan should resolve the issue of Kashmir along the lines of the Israel-Palestinian accord drew a parallel between two inherently different situations and entirely different peoples.

31. Ms. VIGNARD (Society for Threatened Peoples) said that, after 70 years of oppression by Azerbaijan, the Armenians of Nagorny Karabakh refused to accept the repetition of that traumatic experience and any return to Azeri rule. The right of secession which they claimed was an option accepted in international law in cases where a State discriminated against a part of the population, violating the principles of equal rights and self-determination, and thus forfeited its claim to sovereignty over a territory.

32. Moreover, Azerbaijan had never had a right to Nagorny Karabakh under international law, its renunciation of the territory in 1920 and the proclamation of Nagorny Karabakh as an integral part of Armenia in 1921 being the last internationally acknowledged instruments relating to the territory. The Republic of Nagorny Karabakh was thus an independent State formed in the wake of the break-up of the Soviet Union, its Declaration of Independence in 1991 being in compliance with the Soviet laws in force at the time and the international law governing secession.

33. Ms. BATHA (Christian Solidarity International) said that, in December 1991, a referendum on independence had been held in Nagorny Karabakh in the presence of many foreign observers and in full compliance with the legislation of the Soviet Union in force at the time. The response of Azerbaijan had been armed aggression. The current situation was that the Nagorny Karabakh defence army controlled 9 per cent of the territory of Azerbaijan proper whilst the Azerbaijan army held 15 per cent of the territory of Nagorny Karabakh.

34. Since the ceasefire in May 1994, the situation had been one of neither war nor peace and, if active negotiations were not resumed, the ceasefire might well collapse, with a renewal of military confrontation that would bring

incalculable hardship to all the peoples of the region. She thus urged the Commission and the High Commissioner for Human Rights to take steps to ensure that the parties negotiated an agreement on the status of Nagorny Karabakh, based on the principle of self-determination and on guarantees that refugees would be allowed to return home.

Statements in exercise of the right of reply

35. Mr. XIE Bohua (China) said, in connection with agenda item 7, that a few NGOs had once again made groundless attacks on China. By openly advocating the independence of Tibet, those organizations were in fact advocating the dismemberment of a sovereign State, motivated not by the desire to promote and protect human rights but by the hope that the Chinese State would fall apart. His delegation categorically rejected all such attacks.

36. The principle of self-determination was clearly defined in the Charter and other relevant international human rights instruments and could not be distorted at will. Any statement or action in the name of the right to self-determination that was aimed at undermining the sovereignty or territorial integrity of a State could not but create confrontation among nations, aggravate national conflicts and social turmoil, and threaten world peace and security. China resolutely resisted and opposed the use of the forum of the Commission to instigate dissension and undermine the sovereignty and territorial integrity of States.

37. Mr. MOUSSAEV (Observer for Azerbaijan) said that the so-called struggle of the Armenian ethnic minority for independence from Azerbaijan, recognized by international law as militar,' aggression against Azerbaijan and as occupation of a part of its territory, had resulted in the forcible eviction of a million Azerbaijanis and other ethnic groups from Armenia and the occupied Azerbaijani territories, together with the extrajudicial execution of more than 18,000 Azerbaijanis.

38. Respect for the sovereignty and territorial integrity of Azerbaijan and the inviolability of its borders had been emphasized in Security Council resolutions and other decisions by international bodies. The Deputy Foreign Minister of Armenia had denied the presence of Azerbaijani hostages and prisoners-of-war in Armenia but, on 1 March 1997, Azerbaijani citizens belonging to those categories had numbered around 5,000, including 314 women, 61 children and 253 elderly persons. His Government was acquainted with the whereabouts of more than 900 of those people, including 39 women, 12 children and 39 elderly persons. Most of those people were being detained by the Armenians without the knowledge of the International Committee of the Red Cross (ICRC) and thus did not appear on the official ICRC lists.

39. With regard to the so-called "genocide" and "pogroms" against Armenians - which had been organized by the Armenian secret services as a cover for aggression against Azerbaijan - he cited pogroms and killings in three Armenian towns in November 1988 and the killing of 216 Azerbaijanis during their forcible eviction from Armenia. Hundreds of inhabitants of the Azerbaijani town of Khodjali had been killed in one night in February 1992 by Armenian armed forces with the help of mercenaries and terrorist groups.

The Armenian Government should also take into account the rights of the one million Azerbaijani victims of its aggression, including hundreds of thousands of people forcibly evicted from their historical homeland.

40. Mr. TOUIMI (Observer for Morocco) said that, if the representative of a neighbouring country who had spoken at the previous meeting genuinely wished to contribute towards the solution of the Saharan problem, he would be well advised to study the terms of the settlement plan more closely and to avoid using incorrect and offensive language. Morocco was not an occupying power in the Western Sahara and its role in the region was not that of a foreign aggressor. Its lawful rights had been recognized by the International Court of Justice in 1975 and its continuing support for the holding of a referendum in the region was well-documented.

41. Mr. NAZARIAN (Observer for Armenia) said, in response to the statement by the observer for Azerbaijan, that the conflict over Nagorny Karabakh, which had claimed the lives of more than 15,000 people and caused a million innocent people to be uprooted from their homes over the past six years, continued to threaten the security and stability of the whole region. The international community had yet to come to terms with the root cause of the conflict and devise appropriate measures to find a peaceful solution. As his Government had asserted from the outset, the people of Nagorny Karabakh, who were striving for self-determination, were pitted against the Government of Azerbaijan, which was denying them their rights and security, and the statement by the observer for Azerbaijan was thus a crude violation of the principles of international law.

42. Azerbaijan maintained that it could guarantee Nagorny Karabakh's security and peacetul existence, while at the same time sowing distrust and enmity through false accusations against Armenians and a misrepresentation of its own role and responsibility in seeking a political settlement. The people of Nagorny Karabakh faced the threat of genocide and the statement by the observer for Azerbaijan was a desperate attempt to distract international attention from the real issues involved.

43. Mr. DEMBRI (Algeria), reminded the observer for Morocco that the right to self-determination was not an artificial concept but a major advance for human rights that had developed in the twentieth century. Security Council resolution 1084 (1996) and General Assembly resolution 51/143 both referred to the importance and usefulness of direct contacts between the two sides to the conflict in the Western Sahara so as to create an atmosphere of confidence and encouraged Morocco and the Frente POLISARIO to enter into a dialogue as soon as possible.

44. Mr. RAMLAWI (Observer for Palestine) said that the observer for Israel had said nothing new in his statement but merely repeated the traditional position of his Government. He had, as usual, decried the activities of the Commission and had resorted to obsolete resolutions to justify Israel's failure to cooperate with the Special Rapporteur, who had been forced to visit Israel as a private citizen. That showed a lack of respect for the Commission, which was commonly regarded as the conscience of mankind.

45. The observer for Israel had also justified the torture of Palestinians and the pronouncement on that subject by the Israeli Supreme Court of Justice, despite the fact that article 2 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, prohibited torture in any circumstances. Israel seemed to be bent on trampling the provisions of the Convention underfoot and on defying the will of the international community. No other country would endorse the position adopted by Israel.

46. The observer for Israel had also stated that Jerusalem belonged to Israel, which therefore had the right to establish settlers. It was, however, an occupying power and had no right to displace the citizens of Jerusalem. Such actions showed a lack of respect for the peace process.

47. Mr. de SANTA CLARA GOMES (Observer for Portugal) said that the statement by the representative of Indonesia that Portugal had lost its administering power over East Timor because it had abandoned the territory in August 1975 was not correct. Portugal had never abandoned the territory, although its capacity to intervene and control events had been reduced for a time owing to the troubles then existing. Moreover, Security Council resolutions 384 (1975) and 389 (1976) recognized Portugal as the administering power of the non-self-governing territory of East Timor, thus indicating that East Timor had not completed its decolonization process and that Indonesian rule over the territory was illegal.

48. For that reason, his Government strongly favoured the dialogue on that issue between itself and the Government of Indonesia which was currently taking place under the auspices of the Secretary-General. It also favoured including in the dialogue the people of East Timor, who were directly concerned. Every obstacle to a just, comprehensive and internationally acceptable settlement of the question should be overcome and he hoped that the Commission would contribute to that outcome by encouraging the dialogue.

49. Mr. de ICAZA (Mexico) said he was astonished that the International Indian Treaty Council, an NGO based in the United States, should have referred to the situation in the Mexican State of Chiapas under agenda item 7, since nowhere in Mexican territory was anyone subjected to foreign or colonial domination or occupation. His Government firmly intended to make headway in resolving the problems of indigenous communities, in accordance with the Constitution and the San Andrés principle. The policy of achieving peace through dialogue and negotiation still remained valid. Lastly, he assured the Commission that the unilateral ceasefire adopted by his Government a few days after fighting had broken out in January 1994 was still in force.

50. Mr. ZIARAN (Observer for the Islamic Republic of Iran) said that the reference by the observer for Israel to the United States State Department report on Iran merely demonstrated the credibility of his delegation's earlier statement. The United States was trying to distract world public opinion from the terrorism and crimes committed by Israel. He recalled an Iranian proverb that a thief always called his accomplice as a witness.

51. Mr. TOUIMI (Observer for Morocco) said that he would not dispute the comments by the representative of Algeria, though some matters could be clarified. The Secretary-General's report (S/1997/166), paragraph 6, stated

that both sides wished to maintain contact. The representative of Algeria had raised a new issue. He hoped that the other questions he had asked would be answered in due course.

52. Mr. MULUME (Zaire) said his delegation categorically refuted the assertion by the Special Rapporteur on the use of mercenaries that there was a massive presence of mercenaries alongside Zairian forces. The Special Rapporteur had not checked his facts. Foreign advisers serving with regular forces were not mercenaries. Moreover, the conflict in Zaire had nothing to do with self-determination; it was a foreign aggression by neighbouring countries using Tutsi rebels to invade Zairian territory. In that context, the Special Rapporteur failed to mention the existence of mercenaries among the foreign troops concerned, despite the fact that Security Council resolution 1097 (1997) acknowledged the fact and demanded the immediate withdrawal of those troops.

53. Mrs. SYAHRUDDIN (Indonesia) said that her Government's stated position was unchanged. Portugal was apparently engaged in an attempt to assuage its guilty conscience over events in its former colony of East Timor by transferring the blame to Indonesia. The assertion that Portugal was the administrative authority of East Timor was fatuous, except in the most archaic interpretation of General Assembly and Security Council resolutions. The last time that a resolution on East Timor had been voted on in the United Nations had been 14 years previously and it had been adopted by a very slim majority.

54. Mr. DEMBRI (Algeria) said that no political conditions should be attached to the direct contact between Morocco and the Frente POLISARIO. The Western Sahara was the last gulag still existing in the world and it was the duty of the international community to end that situation. Algeria had carried out its role of observer to the conflict so effectively that a ceasefire was in place. As for the remarks by the observer for Morocco on the internal Algerian situation, he would not comment upon them since they were beneath contempt.

IMPLEMENTATION OF THE PROGRAMME OF ACTION FOR THE THIRD DECADE TO COMBAT RACISM AND RACIAL DISCRIMINATION (agenda item 13) (E/CN.4/1997/68 and Add.1, 70, 71 and Add.1 and 2, 72 and Add.2, 3 and 4; A/51/301)

55. Mr. ZAHRAN (Egypt) said that, with the end of apartheid in South Africa, it had seemed that racism was becoming a thing of the past. There had, however, been an unfortunate recrudescence of racism, racial discrimination and xenophobia, the worst examples of which were to be found in the former Yugoslavia. The "ethnic cleansing" and genocide there, that had clearly been planned at the highest political level, were to be utterly condemned, as were the similar events in Rwanda.

56. There were other countries, too, in which racial abuses, even extending to torture and murder, were to be found; migrant workers in a number of advanced countries, for example, had been subjected to attacks for which Governments and the media bore some responsibility. It was a matter for deep concern that racism and xenophobia should be actually taking new forms and in that context, steps should be taken to ensure that the Internet was not abused.

57. While it was a welcome development that two International Tribunals were in place to punish violations of human rights, neither of them was beyond criticism. The International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 had been unable to try two of the most egregious personalities involved, Mr. Karadzić and General Mladić. Proceedings in Rwanda were much too slow; faster progress would provide the best guarantee of security for refugees and displaced persons in the Great Lakes region.

58. The international community should do its utmost to fight racism in accordance with the objectives of the Third Decade - for which the Centre for Human Rights should provide a point of contact to coordinate all programmes that were adopted - as well as the Programme of Action of the World Summit for Social Development.

59. Mr. XIE Bohua (China) said that, although the international community had tried for decades to eliminate racism and racial discrimination, and had achieved some positive results, the combat against racism was far from over. Indeed, some new forms of racism - traceable to profound and complex causes - had arisen. Colonialism and nazism had provided their socio-historical basis and the concept of racial superiority continued to exert considerable influence in some societies. The social realities of certain countries showed that, despite the principle of equality in law and institutions, people who were different in race, colour, origin or religion were often the target of discrimination and persecution.

60. In furtherance of the fight against new forms of racism, the United Nations should continue to condemn and give priority attention to all forms of racism and racial discrimination, particularly new forms of racism, through the activities planned for the Third Decade to Combat Racism and Racial Discrimination. The Special Rapporteur on contemporary forms of racism, who had done much useful work, should be provided with adequate resources. Secondly, the relevant United Nations bodies should conduct a comprehensive study of contemporary forms of racism and their social causes and manifestations, with a view to recommending effective measures to eliminate all forms of racism. Thirdly, countries still plagued by racism should be urged to face up to their responsibility and take political, legal, administrative and educational steps to address the problem.

61. His Government had been steadfast in its stand against racism and racial discrimination. It had resolutely supported the struggle of the peoples of southern Africa against racism, sponsoring relevant resolutions and making annual contributions to the United Nations Trust Fund for South Africa, whose apartheid policy it had roundly condemned. China had always scrupulously fulfilled its obligations under the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Prevention and Punishment of the Crime of Genocide and the International Convention on the Suppression and Punishment of the Crime of Apartheid and would actively support the work of the Third Decade and its follow-up activities, which would help to eliminate all forms of racial discrimination, in cooperation with the other members of the international community.

62. Mr. PLORUTTI (Argentina) said that his delegation was concerned about the persistence of intolerance, as manifested by the current immigration crisis and the spread of racist ideologies through the information media. Education was an essential component of efforts to eliminate racism and racial discrimination. The Special Rapporteur should be given greater resources.

63. The principle of equality was proclaimed in Argentina's Constitution and legislation. In August 1988, a law had been unanimously adopted providing that civil proceedings could be instituted against anyone arbitrarily restricting the full enjoyment of basic rights, especially through actions or omissions that discriminated on such grounds as race, religion, nationality, ideology or other opinion, sex, economic or social status or physical characteristics. Such acts were also punishable under the Penal Code if they manifested persecution or hatred of a particular race, religion or nationality or if they sought to destroy any national, ethnic, racial or religious group.

64. In 1993, a national anti-discrimination programme had been launched to raise public awareness of the problem, inter alia by supporting the efforts of the NGOs. The constitutional reform of 1994 had given human rights treaties the force of constitutional law and had provided that the remedy of amparo could apply to actions or omissions involving any type of discrimination. The National Institute against Discrimination, Xenophobia and Racism was responsible for formulating national policies and specific measures in that area. His Government was confident that the progress made to date would result in a more democratic and non-discriminatory society.

65. Mr. SIMKHADA (Nepal), having stated that his country's Constitution forbade discrimination against any citizen on the grounds of religion, race, sex, caste, tribe or ideological conviction, said it was disheartening to learn from the Secretary-General's report on the implementation of the Programme of Action for the Third Decade to Combat Racism and Racial Discrimination (E/CN.4/1997/68) that a lack of resources had hindered the implementation of the activities planned. He welcomed the report's linkage of the elimination of racism with the work of the Office of the United Nations High Commissioner for Refugees (UNHCR), since Nepal was a small, least-developed country which had provided asylum to the largest caseload of refugees in Asia for a number of years. He was concerned to note that racial discrimination against migrant workers and their families continued to worsen.

66. International action, including that under the Programme of Action for the Decade, had led to some progress. However, manifestations of racial discrimination continued, sometimes on the part of Governments themselves, and represented a threat to international peace and security. Nepal, which had actively opposed apartheid, believed that the preservation of the cultural heritage of one population group at the expense of that of another both hindered social development and violated the provisions of the Charter and the Universal Declaration of Human Rights.

67. The Commission should emphasize dialogue rather than political confrontation in its work and should encourage self-criticism rather than apply pressure. He appealed to all Governments, intergovernmental and non-governmental organizations and communities to join forces to combat all forms of racism and intolerance.

68. Mr. van WULFFTEN PALTHE (Netherlands), speaking on behalf of the European Union and the associated countries of Bulgaria, Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia and Slovenia, said that action at the international level to combat intolerance, which was at the core of human rights violations, must be complemented by government measures to fight racism and prevent it from leading to violence and tragedy. Tolerance was both the essence of human rights and the foundation of freedom, justice and peace.

69. Although the national policies of the States members of the European Union took a firm stand against intolerance, Union-wide efforts to combat racism were also under way. In December 1995, the European Council had recommended the harmonization of national legislation and the development of legal assistance between member States. In July 1996, it had adopted a joint action to combat racism and xenophobia, inter alia through legal assistance. A proposal to establish a European Monitoring Centre for Racism and Xenophobia was also being developed; it would provide objective information and help to develop national and Union-wide policies. Lastly, the Union had designated 1997 as the European Year against Racism, during which countries would share information on good practices and conduct publicity campaigns to reinforce a climate of acceptance and appreciation of racial and ethnic groups.

70. In November 1995, the participants in the first Euro-Mediterranean Conference had confirmed their commitment to promoting tolerance. The work of the Council of Europe in that area had been given fresh impetus by the establishment of the European Commission against Racism and Intolerance. The Organization for Security and Cooperation in Europe (OSCE) had addressed the issue as well, largely through its High Commissioner for National Minorities and its Office for Democratic Institutions and Human Rights.

71. He called upon all States that had not yet done so to ratify the International Convention on the Elimination of All Forms of Racial Discrimination, together with the amendment concerning financial arrangements for the Committee on the Elimination of Racial Discrimination, and to recognize the Committee's competence to consider communications from individuals.

72. The Committee's practice of preparing concluding observations was very useful. He hoped that it would step up its cooperation with regional and non-governmental organizations and with other United Nations bodies and instruments, including the Commission's Special Rapporteur on the subject.

73. Although the idea of convening a world conference on racism and intolerance was an interesting one, alternative ways of addressing the issue at a high level should first be examined. Such efforts should be focused and practical and should complement existing activities and instruments.

74. Early warning measures to prevent and respond to ethnic and racist violence were essential; the United Nations should adopt a coordinated, system-wide approach to the task. Intolerance was evident, however, even in

peaceful societies, and must be combated through human rights education to prevent outbreaks of violence and promote the full realization of human rights for all.

75. Ms. HODGES (International Labour Organization (ILO)) said that ILO continued to promote equality of employment and occupation for all. ILO Convention No. 111, which had been ratified by 125 States, was one of the Organization's fundamental human rights conventions; the Director-General was conducting a campaign to secure further ratifications. The supervisory bodies for that Convention, which were unique in their tripartite representation, sought to eliminate racial discrimination in the workplace. The Organization also cooperated with United Nations bodies such as the Committee on the Elimination of Racial Discrimination and the Commission's Working Group on Minorities. Its technical assistance and cooperation projects sought to help countries eliminate discriminatory practices in the workplace.

76. Ms. McCLURE (International Labour Organization (ILO)) said that, in the early 1990s, ILO had launched a project on combating discrimination against migrant workers and ethnic minorities in the world of work. The first phase of the project had revealed disturbingly high levels of discrimination in developed countries. Such discrimination was not only morally and socially unacceptable, it was also economically short-sighted. The second and third phases of the project, which were currently under way, involved the analysis of the effectiveness of national legislation and training activities. The fourth and final phase would disseminate the findings of the first three through national and international seminars; the seminars' conclusions would be published in the form of a manual on combating job discrimination against immigrants and ethnic minorities.

77. Mr. LITTMAN (Christian Solidarity International) said that anti-Semitism had been a taboo subject in the Commission and other United Nations forums until mentioned in a 1992 report of the Secretary-General. The Commission's image had been badly tarnished at the current session, when the Chairman and the members of the Commission had failed to react to the grotesque libel put forward by the observer for Palestine, who had accused the Israeli authorities of infecting 300 Palestinian children with the human immunodeficiency virus (HIV). He had offered no proof to back up that grave accusation.

78. The accusation was similar to past ones, which had been investigated and found groundless, that Israel had poisoned Palestinian schoolchildren. He wondered whether such foul and false allegations could have influenced the Jordanian soldier responsible for the recent cold-blooded shooting of Israeli schoolgirls.

79. He recalled that the Swedish Attorney-General had successfully prosecuted the head of the anti-Semitic, Stockholm-based Radio Islam for incitement against an ethnic group and that a report on the case had concluded that central institutions in society had a special obligation to fight anti-Semitism. The Commission was such an institution. He therefore requested the Chairman to prepare a declaration prohibiting the expression of racist sentiments in the Commission, and called upon the Commission, as the proclaimed conscience of mankind, to support that declaration.

80. In addition, he asked that arrangements should be made, through the World Health Organization and other bodies, to conduct an official and independent investigation of the recent accusation; if it was found to be false, it should be declared a racist crime punishable by a suitable international tribunal.

81. Ms. TANAKA (International Movement against All Forms of Discrimination and Racism) said that States must accept and implement internationally recognized standards and cooperate fully with international supervision systems. She hoped that the Commission would support implementation of the activities planned for 1997 contained in the report of the Secretary-General (E/CN.4/1997/68, paras. 82-85).

82. She noted that all the States visited by the Special Rapporteur on contemporary forms of racism, racial discrimination and xenophobia and related intolerance were parties to the International Convention on the Elimination of All Forms of Racial Discrimination and suggested he should consider visiting countries which had not yet ratified that instrument. The Special Rapporteur and the Committee on the Elimination of Racial Discrimination should stay abreast of each other's work and take it into account in their own efforts. Lastly, the United Nations, and especially the Committee on the Elimination of Racial Discrimination, should make more efforts to involve national institutions and NGOs in the implementation of the Convention.

The meeting rose at 6.10 p.m.

UN

UNITED NATIONS

E

Economic and Social Council

Distr.
GENERAL

E/CN.4/1997/SR.10
29 April 1997

ENGLISH
Original: FRENCH

COMMISSION ON HUMAN RIGHTS

Fifty-third session

SUMMARY RECORD OF THE 10th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 17 March 1997, at 10 a.m.

Chairman: Mr. SOMOL (Czech Republic)

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GE.97-11055 (E)

The meeting was called to order at 10.25 a.m.

STATEMENT BY MR. AZEDDINE LARAKI, SECRETARY-GENERAL OF THE ORGANIZATION OF THE ISLAMIC CONFERENCE

1. Mr. LARAKI (Organization of the Islamic Conference) said that the Organization of the Islamic Conference (OIC) had been participating, since its creation, in the Commission's efforts to promote and protect human rights and fundamental freedoms, which were also an integral part of the Islamic faith. Thus, inspired by the eternal values of Islam, it had in 1995 adopted a Declaration on Human Rights in Islam that should contribute to building a world of peace, justice, tolerance and respect for human dignity.

2. In recent years the world had seen a resurgence of conflicts due to mounting hatred and intolerance both within States - among ethnic groups, tribes and nationalities - and between States. On the eve of the twenty-first century, more than 2 billion poor people were trying to survive in rural settings threatened by environmental disasters or in urban areas plagued with unemployment. The international community needed more than ever to face those challenges in conformity with the Charter of the United Nations and international law.

3. Among the conflicts of which civilian populations most often bore the brunt, there were four that had their origin in failure to respect the right of peoples to self-determination. The first was the conflict between Israel and the Palestinian people. OIC supported the Middle East peace process on the basis of Security Council resolutions 242 (1967), 338 (1973) and 425 (1978) and of the "land for peace" formula. In building its settlements, violating the peace accords it had signed and the fourth Geneva Convention, and refusing to comply with the Security Council resolutions, Israel was preventing the Palestinian people from creating an independent State on their national soil.

4. The second was the bloody conflict of Jammu and Kashmir, where the people had been fighting for 50 years to obtain their right to self-determination, as recognized by the Security Council, and where massive violations of human rights were being committed. OIC, which had always declared itself in favour of the exercise of all such rights and of a peaceful settlement of the conflict in accordance with United Nations resolutions, hoped that the proposal by the Prime Minister of Pakistan for a dialogue with India would be followed up and would make it possible to secure peace.

5. Thirdly, referring to the tragedy in Bosnia and Herzegovina, he warned against the danger of letting war criminals go unpunished and called upon the international community to make sure that they were indeed prosecuted by the International Tribunal; otherwise respect for human rights, as provided for in the Dayton Peace Accord, would be a vain hope.

6. Lastly, the drama affecting Azerbaijan, the victim of Armenian aggression, was another cause for concern to OIC. The international community must act without delay to ensure that the territorial integrity

of that country was restored and that the flagrant violations of the fundamental rights of its population living in occupied Azeri territory were stopped.

7. OIC also shared other concerns of the international community, particularly with regard to racial, cultural and religious discrimination, the persecution of minorities and the upsurge of nationalistic movements. Some minorities, such as the Muslim minorities of the former Yugoslavia, whose national and civil rights were being violated by the authorities in place in Kosovo and Sandzak, required particular attention.

8. He wished to pay a tribute to the Office of the United Nations High Commissioner for Refugees (UNHCR), the International Committee of the Red Cross (ICRC) and other humanitarian organizations endeavouring to mitigate the sufferings of refugees and displaced persons; OIC and its specialized institutions were contributing to those efforts. Aside from conflicts, however, poverty itself was an enemy that the Commission had to combat in order to preserve the most basic human right - the right to life. With a view to achieving social justice, OIC hoped that it would soon define a practical strategy to ensure respect for the right to development.

9. OIC was convinced that the Commission would be able to avoid any selective or discriminatory treatment of human rights issues. The fiftieth anniversary of the Universal Declaration of Human Rights would provide the international community with the opportunity to reiterate its commitment to human rights and the High Commissioner for Human Rights could count on the cooperation and support of OIC in preparing to mark that event in a worthy manner.

10. In conclusion, he recalled that revealed religions had been the first guarantees of human rights; based on the sublime values of Islam, OIC was committed to working in concert with the international community for peace, justice and the progress of humankind.

IMPLEMENTATION OF THE PROGRAMME OF ACTION FOR THE THIRD DECADE TO COMBAT RACISM AND RACIAL DISCRIMINATION (agenda item 13) (continued)

(E/CN.4/1997/68 and Add.1, 70, 71 and Add.1 and 2; E/CN.4/1996/72 and Add.2 to 4; A/51/301)

11. Mr. VERGNE-SABOIA (Brazil) said that racism and racial discrimination regrettably continued to exist in various forms throughout the world in spite of the international and national legal standards prohibiting them and the many international campaigns aimed at eradicating those practices. Two main phenomena were to be noted in that regard. The first was ethnic conflicts, which were the source of some of the most serious and massive violations of human rights and whose solution presented a major difficulty for the international community. The international community should give priority to preventive action, which meant developing awareness of human rights in the communities concerned and responding to their legitimate grievances.

12. The second phenomenon was the resurgence of racism and racial discrimination in developed countries. That had to be seen in the context

of economic crisis, unemployment and, in some cases, national frustration, but it could nevertheless be combatted. It was apparent, moreover, from the report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Mr. Glèle-Ahanhanzo, on his missions to France, the United Kingdom and Germany (E/CN.4/1996/72 and Add.2 to 4) that most of the Governments of the democratic societies affected were trying earnestly to resolve those problems in an adequate way. In that regard, his delegation was pleased to learn that the European Union had designated 1997 as the European Year against racism and xenophobia, and it had noted with interest the warnings given by Mr. Xavier Emmanuelli, State Secretary for Humanitarian Action in France, regarding the misuse of freedom of expression for the dissemination of messages of racial hatred, and his advocacy of the need to punish those responsible. Such messages could only encourage the violence that was directed in some countries against certain groups, such as migrant workers and their families or refugees, and the rise of movements of the extreme right, particularly in Europe, which advocated racial intolerance and racist ideas.

13. The international community had to combat those phenomena using the international human rights machinery. The Commission and the Sub-Commission played a role of paramount importance in that regard, as did UNESCO, which had the task of promoting a culture of tolerance. There was also a need to strengthen the resources of the Committee on the Elimination of Racial Discrimination so that it could carry out its functions effectively. It was important, furthermore, to pursue the activities undertaken within the framework of the Programme of Action for the Third Decade to Combat Racism and Racial Discrimination and to encourage initiatives such as the seminar to assess the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination, held at Geneva in September 1996. Lastly, his delegation was in favour of the organization of a world conference on racism before the end of the twentieth century.

14. As a multi-ethnic and multicultural country, Brazil had always rejected racism and racial discrimination, and had always endeavoured to promote good relations between the various racial groups making up its population. Conscious, however, of the fact that the economic and social conditions of black and coloured people, who accounted for 44.2 per cent of Brazil's population, were generally not as good as those of white people, the Government had taken specific measures to ensure equal rights and equal opportunities for all Brazilians, regardless of race, and to recognize the role of blacks in the construction of Brazil, and particularly in its culture. President Cardoso had set up an inter-ministerial working group composed of representatives of civil society and various ministries to develop policies aimed at the black population, in particular with a view to eliminating any racial discrimination against them in employment, enhancing their image in the media, promoting tolerance through the education system, recognizing the right of the Quilombo communities to the lands they occupied and resolving problems faced by the black population in the areas of health, religion and culture. The Brazilian Government hoped, through those measures, to raise awareness of the important contribution of Africa and Afro-Brazilian communities to Brazil's national identity and to improve the living conditions of its black and coloured population, thereby strengthening further the integration of Brazilian society.

15. Ms. HERNANDEZ QUESADA (Cuba) said that the reports of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance (E/CN.4/1996/72 and Add.2 to 4, and E/CN.4/1997/71 and Add.1 and 2) currently before the Commission gave a good idea of the problems posed on the eve of the twenty-first century by the resurgence of racism, racial discrimination and xenophobia worldwide, and particularly in some countries, where such ideas were espoused by established political parties that were acquiring more and more power.

16. The fact was that the disappearance of apartheid had not put an end to racism. On the contrary, racism had increased, particularly in the developed world, in new forms, including the xenophobia and intolerance shown towards immigrants, whose numbers were unfortunately growing as the gap widened between countries of the North and the South. Some countries which set themselves up as champions of human rights denied human rights to large population groups that nevertheless contributed in a substantial way to boosting those countries' output and revenues. It was clear that the prohibition of the dissemination of ideas based upon racial superiority or hatred advocated by the Committee on the Elimination of Racial Discrimination in its General Recommendation XV, adopted in 1993, constituted a legitimate and necessary restriction on the rights to freedom of opinion, expression and association, which - as some countries tended to forget - went hand in hand with certain duties and responsibilities to establish a fair balance between all human rights.

17. In that context, it was important to recognize the potential role of means of communication and computers, including the Internet, in promoting racist propaganda. In that regard, her delegation endorsed the recommendations made by the seminar to assess the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination with particular reference to articles 4 and 6. That seminar had, unfortunately, been the only activity undertaken within the framework of the Third Decade to Combat Racism and Racial Discrimination, owing to lack of resources to execute a meaningful programme of action and to lack of interest on the part of a large number of member States. It was time for all States Members of the United Nations to assume their full responsibilities and participate fully in that innovative process. The world conference on racism, racial discrimination and xenophobia should be carefully prepared and should be held before the end of the century in order to establish clearly the goals to be attained in the fight against racism and the resources that would have to be made available for that purpose in the twenty-first century.

18. Mrs. JANJUA (Pakistan) said that the demise of apartheid had marked only a first stage in the fight against racism and the battle was far from over, as was clear from the report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance (E/CN.4/1997/71 and Add.1 and 2). Although the International Convention on the Elimination of All Forms of Racial Discrimination had been ratified by more than 150 States, racial discrimination, as defined in article 1 of the Convention, not only had not ceased but had taken on new forms, of which the worst were xenophobia and related intolerance. Thus, in many parts of the world, the rights of immigrants, migrant workers, refugees and minorities were being violated in pursuance of the doctrine of racial superiority.

19. The discrimination against Muslim minorities in several countries by racist and fascist groups was especially disturbing. The tendency to equate Islam with fundamentalism and terrorism was all the more dangerous as the concepts of terrorism and extremism were totally alien to Islamic religion and tradition. The Seventh Islamic Summit of the Organization of the Islamic Conference, held at Casablanca in December 1994, had for that reason adopted a resolution calling upon all States to oppose the attempts aimed at presenting a distorted image of Islam and Muslims with a view to justifying aggression against and occupation of Muslim countries and peoples.

20. Her delegation regretted that the only activity the Centre for Human Rights had been able to carry out during the Third Decade to Combat Racism and Racial Discrimination had been the holding of a seminar in September 1996 to assess the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination. It also noted with regret that the idea of convening an international conference on racism as one approach to giving effect to the aims and objectives of the Third Decade had not attracted wide support.

21. Pakistan, which had a pluri-ethnic population, had always been at the forefront of the fight against racism. It had been among the first countries to sign and ratify the International Convention on the Elimination of All Forms of Racial Discrimination. The people of Pakistan, guided by the precepts of equality and brotherhood preached by Islam and enshrined in the Constitution of Pakistan, would continue to work for the complete elimination of all forms of racial discrimination throughout the world and would support all those working towards that end.

22. Mrs. DIALLO (Senegal) observed that the persistence of racism, xenophobia and intolerance undermined the very foundation of the United Nations, since non-discrimination was a principle clearly established in the Charter and in the Universal Declaration of Human Rights, and constituted a serious threat to human rights and democracy. Notwithstanding the many legal instruments that had been adopted, racism and intolerance were on the increase.

23. There seemed to be a gap between States' commitments at the international level and the resources made available to give them concrete form. It was incumbent upon every State to put the international rules elaborated by the United Nations into practice. However, it appeared at the seminar to assess the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination organized by the Centre for Human Rights that the universality of that instrument, although ratified by more than 140 States, was in question. A large number of States had entered reservations, especially concerning article 4, or were reluctant to make the declaration provided for in article 14 recognizing the competence of the Committee on the Elimination of Racial Discrimination to receive and consider communications from individuals or groups of individuals. Since the entry into force of the Convention, less than 10 communications had been examined by the Committee, a figure that pointed to an obvious discrepancy between the declared will of States and the real situation. Yet in order to combat racism, it was essential to make international remedies available to the victims. Such remedies were also a means not of condemning States but of

evaluating the effectiveness of national procedures, identifying any shortcomings in them and, where necessary, improving or harmonizing the relevant legislation.

24. It was equally important to ensure strict respect for article 4, which called for States parties to adopt immediate and positive measures designed to eradicate all incitement to racial hatred and racial discrimination. Freedom of expression was, of course, the most precious of freedoms, the symbol of pluralist society, but it was essential to trace its limits, for when racism began to be manifested verbally, it was not long before it was also manifested in actions. The need to place some restrictions on freedom of expression had, furthermore, been emphasized in all the Committee's general recommendations and in the final report on the right to freedom of opinion and expression (E/CN.4/Sub.2/1992/9 and Add.1) submitted by Mr. Joinet and Mr. Türk to the Sub-Commission at its forty-fourth session.

25. Her delegation therefore believed that among the various means employed by the United Nations to combat racism, strict application of the International Convention on the Elimination of All Forms of Racial Discrimination remained the surest way for States to act in that field and to share what they had in common, namely the cement of universal values.

26. Mr. PERERA (World Federation of United Nations Associations) said that it was not surprising, even though the international community was now in the Third Decade to Combat Racism and Racial Discrimination, that progress in that field was so slow. Far from having disappeared, racial prejudices handed down from generation to generation had today become dogmas for some. The only way of eradicating those attitudes and the resultant racial discrimination was to provide effective education within the family, schools, synagogues, temples, churches and mosques, involving non-governmental organizations (NGOs) and above all the media, especially radio, television and other electronic means of communication.

27. That clearly meant educating the educators in the first place. Seminars of the kind sponsored by the Committee on the Elimination of Racial Discrimination should be conducted in every subregion of the world and followed by an international conference on racism. In that regard, it was regrettable that the Committee's activities were not being adequately funded. The role of the teaching profession in combating racism was crucial, as very justifiably emphasized in article 5.2 of the UNESCO Declaration on Race and Racial Prejudice.

28. However, progress in fighting racism depended above all on the mobilization of Governments, which must give priority to effective implementation of the International Convention on the Elimination of All Forms of Racial Discrimination, in particular by recognizing the competence of the Committee to receive individual communications; they must also ensure the democratic functioning of democratic institutions and carry out appropriate education and information programmes.

29. Ms. SHAH (Human Rights Advocates) said that her organization supported the work of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance. Countries should extend

their cooperation to him and also facilitate the application of international legal standards in domestic courts. There was all too often a gap between theoretical proclamations of equality between communities and the actual situation. Many countries which had officially passed legislation prohibiting racial discrimination harboured, in practice, insidious or indirect forms of discrimination.

30. Human Rights Advocates was concerned by certain indications that the United States was being slow to apply international standards on non-discrimination. The United States Constitution, for example, did not offer adequate protection for racial minorities. According to the Supreme Court, a "race-neutral" government action did not violate the Constitution unless the plaintiff could prove discriminatory intent, a requirement that was inconsistent with the standards of the International Convention on the Elimination of All Forms of Racial Discrimination, which defined racial discrimination as action that had the purpose or effect of denying fundamental freedoms to minorities. Racial disparities in the criminal justice system were prevalent at every stage of the process, from charging to sentencing. The death penalty, for example, was more often called for - and more often applied - against members of certain racial groups, including minors.

31. Such realities must not be ignored. If the work of the Special Rapporteur was to be effective, the public had to be informed of his dialogue with Governments. On account of United States "concerns", however, he had not, as he had originally intended, included his observations on the comments of the United States in his report. It was unclear why the Special Rapporteur should comply with the wishes of countries he was investigating.

32. In countries where racism was on the rise, it was very important to align domestic law with international standards concerning non-discrimination, which did not require a showing of intent. The Commission on Human Rights should invite countries to cooperate more with the Special Rapporteur and take due account of his conclusions and recommendations.

33. Mr. KIRKYACHARIAN (Movement against Racism and for Friendship among Peoples) said that after the defeat of apartheid or the victory of the civil rights movement in the United States, the resurgence of racism in all its forms, including in the country of Martin Luther King, had surprised more than a few politicians around the world. In France, where his organization was based, the party of the extreme right was making steady progress and no longer hesitated to proclaim the inequality of races. The results of a poll, for the time being still confidential, revealed that a majority of French people now felt that it was just as legitimate to express racist as other ideas.

34. Those and other facts demonstrated the urgent need to convene a world conference on racism, and many NGOs believed that it should be one of the principal objectives of the United Nations.

35. Racism was a "total social phenomenon" in the sense intended by Marcel Mauss: developing under certain conditions, it brought together and fused all kinds of ideas about the state of society, the economy and

politics. It thus became a powerful myth against which it was difficult to take action without a global political will on the part of societies, leaders and States.

36. Any effort of resistance was certainly to be welcomed, but the youth-oriented campaigns pursued for several years by the Council of Europe still represented only a very modest step in that direction. The European Union had decided to hold a European Year against Racism and, even better, had made funding available for that purpose, but many organizations believed that it would be more useful at the practical level for Europe to make the fight against racism one of the principles of the Treaty of the European Union, now that the text was being brought up to date.

37. People should not fool themselves by saying that racism and immigration were two distinct problems: measures in Europe generally, and in Germany and France in particular, which made the status of immigrants more precarious at the same time, strengthened, in the public mind, the idea that immigration and unemployment were linked and provided grist for the mill of racist propaganda. What hope was there of the racist extreme right being weakened if the parties in power borrowed its arguments? Faced with the advance of racist ideas both in Europe and worldwide, citizens must stand their ground. Political leaders should not forget that they were citizens too, and that they would be judged by their actions.

38. Ms. WÖLTE (Women's International League for Peace and Freedom) said that, as UNESCO noted in its contribution to the Commission's fifty-third session (E/CN.4/1997/70), there was a clear rise in racism and xenophobia in the world, even though it had just been proven in South Africa that racism in its institutionalized form of apartheid could be vanquished and dismantled. Her organization was convinced that a concerted effort by all Governments could bring racism and racial discrimination to a halt and it deplored the lack of real interest by States Members of the United Nations in the Third Decade to Combat Racism and Racial Discrimination. A particular danger for societies came from discrimination hidden in laws and policies. The tendency to blame rising unemployment and budget deficits in Europe on immigrants and to deprive them of their economic, social and cultural rights was a way of venting people's increasing frustration at the immigrants' expense.

39. For peace to exist there must be respect for the dignity and rights of all, whether citizens, refugees, immigrants, asylum-seekers or tourists. Her organization welcomed the European Union's decision to declare 1997 the European Year against Racism and was encouraged by the growing involvement of European youth in fighting the scourge of racism. However, the Schengen Agreement had also marked the first step in closing Europe's frontiers to aliens. Policies and laws relating to asylum-seekers had been tightened everywhere. There had even been an increase in certain inhuman practices such as "preventive detention" for asylum-seekers or persons without a valid residence permit in Germany. That country's policy concerning the children of immigrants, especially Turks, Moroccans, Tunisians and nationals of the former Yugoslavia, who now needed a visa or a special residence permit, discriminated

against some nationalities and severely impeded the integration of foreigners into German society. An estimated 800,000 children who had been born in Germany or had lived there for most of their lives were affected.

40. Her organization asked Governments to act on the recommendations made by the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance in his 1996 report on his missions to France, Germany and the United Kingdom (E/CN.4/1996/72 and Add.2 to 4), especially those concerning immigration and the integration of foreigners. It also called on those States which had not yet ratified the International Convention on the Elimination of All Forms of Racial Discrimination to do so without delay and urged them to lend their financial support to strengthen the activities of the Decade to Combat Racism and Racial Discrimination.

41. Mr. GUPTA (Afro-Asian Peoples' Solidarity Organization) said that the documents before the Commission clearly showed the ambivalence of all those who sought to champion morality in politics in the name of human rights. In his report (E/CN.4/1997/71), the Special Rapporteur pointed to the various forms of economic, social and cultural discrimination that persisted in the United States. All over the world, immigrants had become scapegoats for economic crises or insecurity. In that context, the lack of interest, support and financial resources for the Third Decade to Combat Racism and Racial Discrimination and its related Programme of Action - over which the General Assembly had expressed regret, as indicated in the Secretary-General's report (E/CN.4/1997/68) - was truly disturbing. The facts mentioned in the report of the seminar to assess the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination with particular reference to articles 4 and 6 (E/CN.4/1997/68/Add.1) were even more serious: the report explained, for example, that it was perfectly possible for appeals to racial hatred to be launched on the Internet in the United States and disseminated around the globe.

42. It should also be pointed out that, of the 147 States parties to the Convention, the few that had made reservations to article 4 were for the most part "advanced democracies". Whatever the technical reasons given, the fact remained that racism was not about to disappear from public life in those countries, even if their constitutions or laws officially proclaimed the contrary. It was often not only the agents of State power but the holders of social and economic power who violated the fundamental rights of tribal groups, minorities and disadvantaged social strata. It was necessary for States, and particularly the developed ones, to take the initiative in building awareness and also in providing their financial support for the Programme of Action for the Third Decade to Combat Racism and Racial Discrimination, which needed support not only in words. If the developed democracies were sincere in their commitment to combat racism, they should begin by treating the minorities and immigrants in their territories humanely instead of using human rights as a pretext for putting conditions on trade and aid for developing countries.

43. The Commission on Human Rights must intensify its efforts in the struggle against racism. It was to be hoped that tangible progress would be made by the end of the Third Decade.

44. Mr. BONARDI (International League for the Rights and Liberation of Peoples), speaking on behalf of Black African people living in Mauritania alongside the Arab-Berber people known collectively as Moors, denounced the systematic policy of racial discrimination imposed by the latter on the former in all areas. That policy had resulted, particularly after the veritable genocide during the "Senegalese-Mauritanian events" of 1989, in the deportation to Senegal and Mali of more than 100,000 Black Mauritanians whose homes, fields and livestock had been taken over by Moors. Since that time, thousands of the Black Mauritanians remaining in the south of the country had been the victims of killings, especially among the military, disappearances, torture and humiliation, or had been discharged from military service without compensation, yet the persons responsible for those crimes were sure of going unpunished since an amnesty had been decreed in June 1991. He cited in particular the cases of three Black officers executed after a summary trial, and of persons detained for speaking out against racism in Mauritania, who had died in custody under atrocious conditions after a trial during which they had not had a lawyer to defend them.

45. The list of instances of harassment of the Black community in Mauritania was long: progressive exclusion from all economic activities, dismissal or furlough of cadres and officials who refused to join the Democratic and Social Republican Party, expropriation of land for the benefit of Moorish businessmen, refusal to issue identity cards and other essential official papers, and identity checks solely for Black Mauritanians travelling inside the country; those practices were combined with the cultural genocide of Black Mauritanians, victims of Arabization and of the refusal to provide for general instruction in other Black African languages. All those facts, as attested in numerous accounts, including a publication by Human Rights Watch/Africa, fostered a Mauritanian Arab ethnocracy and undermined a multicultural and multilingual Mauritania.

46. His organization called on the Commission to mandate the Special Rapporteur, Mr. Maurice Glèlè-Ahanhanzo, to investigate racism in Mauritania.

47. Ms. GIRMA (African Association of Education for Development) said that, after studying the documents presented to the Commission, her organization was more than ever convinced that new approaches were indispensable to combat racism, racial discrimination, xenophobia and intolerance. All observers, including UNESCO, the Secretary-General of the United Nations and the participants in the seminar to assess the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination with particular reference to articles 4 and 6, had noted that those scourges were on the rise and assuming new forms. They had also noted with concern that the international community was showing little ardour in combating them despite the imminent danger they represented. There had, of course, been a few international seminars, but concerted efforts had to be made at the global level without further delay to prevent the political exploitation of those phenomena by extremist movements. It was essential to protect those human beings who were exposed to constant humiliation and suffering, used as scapegoats and driven from their homes and their countries by ethnic hatred, often to endure a ghetto existence abroad in "difficult suburbs". It was high time that the world said "no" to an atmosphere of hate that was unhealthy for all.

48. A fragile social harmony still prevailed in countries such as France, for example, because civil society there was generous and determined, but in Africa, in countries where civil and political rights were non-existent, where ethnic politics was the order of the day, where the dominating ethnic group was continuously harassing civil society, the bulwark it presented was indeed weak.

49. There could be no stability in countries where racial discrimination and ethnic strife were rampant, where some believed that their prosperity meant the rejection and suffering of other human beings, where the interest of one ethnic or racial group prevailed over the general interest, where the building of roads, schools, hospitals and other facilities took no account of the country as a whole, or where jobs were reserved for a specific group. As things now stood, only a world conference on racism and intolerance, promoting a vigorous and innovative approach to the various aspects and manifestations of intolerance, would have the required psychological impact to mobilize the international community effectively against racism.

The meeting rose at 12.10 p.m.

UNITED
NATIONS

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Economic and Social
Council

Distr.
GENERAL

E/CN.4/1997/SR.11
21 March 1997

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS

Fifty-third session

SUMMARY RECORD OF THE 11th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 17 March 1997, at 3 p.m.

Chairman: Mr. SOMOL (Czech Republic)

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IMPLEMENTATION OF THE PROGRAMME OF ACTION FOR THE THIRD DECADE TO COMBAT RACISM AND RACIAL DISCRIMINATION (continued)

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GE.96-11093 (E)

The meeting was called to order at 3.15 p.m.

IMPLEMENTATION OF THE PROGRAMME OF ACTION FOR THE THIRD DECADE TO COMBAT RACISM AND RACIAL DISCRIMINATION (agenda item 13) (continued) (E/CN.4/1997/68, and Add.1, 70, 71 and Add.1 and 2 and 72/Add.2, 3 and 4; A/51/301)

1. Mr. GLELE-AHANHANZO (Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance), introducing his report (E/CN.4/1997/71 and Add.1 and 2), said that the abundance of documentation on the current item reflected the increasingly alarming nature of the world situation with regard to racism, racial discrimination and xenophobia. At the fifty-first session of the General Assembly, he had voiced his concern at that situation and its various manifestations. The international community could not remain indifferent to that ominous trend. A world in which discrimination on grounds of colour, race and national origin, or, indeed, "continental origin", was practised routinely could hardly call itself a "global village". Before economic globalization proceeded any further, it must be decided whether human beings, as well as goods, were to be entitled to international freedom of movement. Many people whom he had met on his field missions placed their hopes in the United Nations, and he appealed to the Commission not to disappoint them.

2. Since the publication of his report, he had received observations from the Governments of Australia and the United States of America on cases of racial discrimination, racism and xenophobia which had been transmitted to them. Those observations would be brought to the Commission's attention in his next report.

3. Mr. KRYLOV (Russian Federation) said that the new forms being assumed by racism and racial discrimination were making it more difficult to identify, prevent and fight those evils. Ghettos, racial laws and formal segregation were things of the past, but hundreds of thousands of people were still being deprived of their citizenship and otherwise discriminated against while attempts to construct mono-ethnic societies were being made in the name of historical justice.

4. The United Nations should adapt to the new realities and adopt new methodological approaches and assessment criteria. The various treaty bodies and the special mechanisms established by the Commission had an important role to play in that process. None of the forms and manifestations of racial discrimination should be ignored. It was particularly important not to exclude the problems of minorities from the activities being undertaken in connection with the Third Decade to Combat Racism and Racial Discrimination.

5. Prevention of inter-ethnic hostility was vitally important for his country, a very large multinational State with more than one hundred peoples, each having its own material and spiritual culture, living side by side. Much had still to be done in terms of both legislation and practical action to develop inter-ethnic harmony and prevent crisis situations, but the first steps had been taken.

6. The principle of equality of all nationalities was enshrined in the Constitution of the Russian Federation, and a comprehensive programme of

measures designed to regulate inter-ethnic and federative relations and to guarantee the rights of national minorities had been confirmed by presidential decree in June 1996. The main object was to ensure the full enjoyment by all the nationalities of the Federation of their right to social, national and cultural development and to strengthen the sense of community of the whole nation on the basis of respect for human rights and fundamental freedoms. Furthermore, the new Criminal Code provided penalties for violations of the equality of citizens on grounds of race or ethnic origin.

7. Mr. DEMBRI (Algeria) said that the resurgence of new forms of racism and racial discrimination so soon after the disappearance of apartheid was a matter of serious concern. The political and geopolitical changes of the past few years had encouraged the growth of nationalism, leading to many tragic conflicts between different communities and ethnic groups. The phenomenon was not confined to the poorest regions of the planet; it affected several continents and created a serious threat to stability, security and peace throughout the world. It was thus the duty of the international community to condemn strongly and unequivocally all forms of xenophobia and racial hatred.

8. His delegation supported the idea of holding a world conference to combat racism and racial discrimination, provided that such a conference did more than simply pay lip-service to the need to fight those evils. It was dismayed at the insignificance of the results achieved so far within the framework of the Third Decade to Combat Racism and Racial Discrimination and felt that the issue should be given priority and should receive a larger share of the Organization's attention and resources.

9. Foreigners, particularly migrant workers, were the first direct victims of the new forms of racism and racial discrimination. In a context of world economic crisis, the simplistic and xenophobic view that foreign workers were responsible for unemployment was gaining ground and was being exploited by certain ruthless political leaders. The Commission should condemn such practices and reject the concept of "national preference" which seemed to be taking root in the labour market, with the effect of accentuating differences between workers instead of promoting solidarity among them. The emergence of new laws or regulations making the legal status of foreign workers less secure must thus also be condemned.

10. It was regrettable that racist political parties should be able to invoke the principle of freedom of expression in order to disseminate their harmful xenophobic ideas. All ideas of racial or ethnic superiority leading to exclusion and hatred among peoples must be condemned and the struggle against racism and racial discrimination must be waged at both the national and the international levels.

11. Ms. GHOSE (India) said that the current item was one of the most important on the Commission's agenda because the phenomenon of racism as an all-pervading cause of discrimination was gaining ground. Although the international community had decided to give priority status to the issue, its actual treatment thereof was so casual as to be almost cavalier. It would seem that, with the collapse of the apartheid system, the focus on racial discrimination had lost its sharpness.

12. Yet racism not only persisted but was actually growing, as evidenced by almost daily incidents in various parts of the world and by the fact that social and political groups propagating racial superiority continued to thrive unhindered by law, the media, civil society or even Governments. Remarkable creations of the information age, such as the Internet, were being used as vehicles for propagating racial intolerance. The Commission should condemn such acts and express strong support for all those actively opposing them.

13. Her delegation's intention in highlighting the issue was not to point a finger at anyone. Laudable efforts were being made, such as the European Union's proclamation of 1997 as the Year against Racism, the Council of Europe's "All Different, All Equal" public campaign and the steps taken to set up a European monitoring centre on racism, but a sense of urgent concern was still lacking in the international community's approach.

14. The fact that the Centre for Human Rights had been able to organize only one seminar since the adoption of the Programme of Action for the Third Decade to combat Racism in 1993 was indicative of that neglect. Funds appeared to be available for other activities of the Centre but the Programme of Action against Racism was starved of finance. Instead of deploying funds from the regular budget, the Centre had preferred to remain inactive and await voluntary contributions. Indeed, the report of the Secretary-General on the implementation of the Programme of Action (E/CN.4/1997/68) gave the impression that the Department of Public Information had done much more than the Centre for Human Rights to advance the goals of the Decade. No member of the Centre's staff appeared to be designated to deal specifically with racism.

15. Whatever the reasons for such neglect, it should not be permitted to continue. The Commission must seek effective solutions at the international level, while supporting and encouraging action at the national level. The battle against racial intolerance and discrimination was not just a matter of government action or of legislation but of efforts by society at large to promote tolerance and to counter prejudice and bigotry. International cooperation, especially through the United Nations, could play a useful role in that regard; the Commission and other human rights bodies should be used to exchange experience on effective ways of fighting racism. The Programme of Action should be re-energized and funded from the regular budget, with voluntary contributions supplementing the Centre's normal efforts.

16. At the previous session, her delegation had expressed disappointment at the Special Rapporteur's inability to submit his complete reports on certain field missions and had urged that his recurrent problems of human and financial resources be effectively addressed. It was thus dismayed to learn from his current report (E/CN.4/1997/71) that such problems continued to prevent him from discharging his mandate effectively. That was a matter of serious concern and needed to be rectified immediately. The Centre, and indeed the Commission itself, would lose credibility if such an important human rights issue were killed by lack of funds.

17. The member States of the Commission should reiterate their belief that racism was one of the most serious violations of human rights and express their commitment to addressing the problem through national, joint and concerted action. They should clearly affirm the view that, under

international law, racism was not an opinion but an offence. The focus should clearly remain on the evils of racism as discrimination based on colour, race or national origin. Racism should not be confused with discrimination in general or with other aspects of discrimination that were more appropriately dealt with under other agenda items.

18. Those parties to the International Convention on the Elimination of All Forms of Racial Discrimination which had expressed reservations on certain provisions must be persuaded to withdraw them. All countries should compare their own laws with the model legislation prepared and circulated by the Centre, with a view to bringing their standards up to international levels. The Special Rapporteur's recommendations should be translated into action. Measures to promote tolerance and pluralism through special education programmes and media campaigns should be initiated in all countries where racism presented a serious problem, with the Centre providing the necessary assistance and expertise through its technical cooperation programme.

19. The Commission should support the convening of a world conference to combat racism, racial discrimination, xenophobia and related intolerance and preparations therefor should begin without delay. As part of the preparatory process, measures to combat racism should be given priority on the agenda of the Commission's next session, by which time, she hoped, the international community's response would no longer be marked by apathy and unconcern.

20. Ms. GAER (United States of America) said that, during the 20 years that had followed the first session of the Commission, her country had established a set of federal, State and local laws prohibiting racial discrimination and providing for legal redress that were unmatched by any nation. The elimination of national, racial and ethnic discrimination had been and would remain her Government's firm policy. Its efforts to overcome the tragic legacy of slavery and segregation had the full support of the country's people.

21. Nowhere in the world was there so much open discussion of race and discrimination, nor so many non-governmental organizations (NGOs) devoted to the cause of racial justice as in the United States. The task of achieving racial justice was not finished. The country's racial divisions had a long and painful history. As President Clinton had said, the forces of prejudice and contempt had nearly destroyed the nation in the past and plagued it still. Racism was undoubtedly a problem in the United States, as it was in every nation of the world. It was for that reason that her delegation had supported the appointment of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance.

22. It was unfortunate, therefore, that the Special Rapporteur's early reports had been marred by numerous inaccuracies. His report on the United States (E/CN.4/1995/78/Add.1) implied, in its paragraph 111, that racism and racial discrimination were tolerated or even tacitly approved by government institutions. That did a serious disservice to the Government and people of the United States. The Special Rapporteur appeared not to understand the racial situation in the United States, to say nothing of its policies and legal structures. He seemed to have accepted anecdote as fact

and taken every criticism at face value, while failing to note the rich body of statistical and analytical research on the issue by Government, NGOs, educators and governmental bodies.

23. It had been hoped that the Special Rapporteur would investigate a wide range of contemporary forms of racism and racial discrimination, but his analysis of the topics was often disappointing. The mere recitation of quotations from other sources was a poor substitute for the analysis that the world community expected of him. Since the Special Rapporteur's mandate was the first to address anti-Semitism - an age-old phenomenon that had led to genocide and tragedy - she urged him to give the matter more detailed and nuanced attention.

24. Mr. SELBI (South Africa) said that his country had never previously been a member of the Commission, for reasons that lay at the heart of the agenda item under consideration. The apartheid policies of the former regime and the response of the international community had kept it from participating in the work of such bodies. His country thus knew only too well the pain that could be inflicted on mankind by policies of racism and racial discrimination.

25. Since South Africa's transition to democracy, it had adopted a number of measures in that regard. The "Founding Provisions" of the Constitution provided that no one should be unfairly discriminated against on the grounds of, inter alia, race, ethnic or social origin, colour, religion, culture or language, a prohibition that extended across the whole spectrum of national life.

26. South Africa had also had to deal with the historical legacy of the apartheid system, requiring that some provision should be made for compensation or remedial government action for the victims of past discrimination. Among the measures taken had been the establishment of such national institutions as the Human Rights Commission, the Commission on Gender Equality, the Truth and Reconciliation Commission and the National Youth Commission and the appointment of the Public Protector. Racism had not, of course, been completely removed from South African life. Society could not be purged completely in a matter of a few years.

27. The Universal Declaration of Human Rights, which, in 1948, had given the opponents of the apartheid system a ray of hope at a dark moment, had been embraced by the new South Africa. There appeared, however, to be a dangerous perception that, with the demise of apartheid, the international community needed to pay less attention to racism, with the result that a deafening silence surrounded the issue. If anything, however, the problem had become more severe. Racism was not confined to any one nation or any one continent, and its ugly, though different, manifestations occurred everywhere. The international community must continue to give the problem serious consideration and consider how best to utilize the resources of the United Nations in addressing it. It was a problem that could not be resolved at the international level alone; national Governments and their citizens must be committed to ridding their societies of racism.

28. The United Nations' task was to provide a clear direction to the international community, measuring how each country combated the horrors of

racism and identifying a realistic programme of action. If another world conference on racism was to be held, it should be preceded by thorough preparatory work at the regional and subregional levels. Pious words must be accompanied by action on the ground.

29. His delegation welcomed the work of the Special Rapporteur and called on States to implement his recommendations. The issue should not, however, become entangled in politics; racism and racial discrimination were too important to be used as a political football.

30. Mr. PRATOMO (Indonesia) said that the proclamation of the Third Decade evidenced the firm commitment of the international community to eradicating all forms of racism and racial discrimination. The World Conference on Human Rights and the Vienna Programme of Action had set it as a priority, and efforts to implement the goals of the Third Decade and the Vienna obligations should be redoubled. The Programme of Action for the Third Decade provided a good vehicle for achieving those goals, but adequate financial resources were required to undertake the activities contained therein.

31. As the General Assembly had noted with regret at its fifty-first session, the Centre for Human Rights had organized only one seminar on the issue since 1993. In its resolution 1996/8, the Commission had emphasized the importance of making the Centre a focal point for coordinating all programmes to be implemented by United Nations bodies and other parties for the realization of the Third Decade. The General Assembly had subsequently requested the High Commissioner for Human Rights to give the highest priority to programmes and activities dedicated to combating racism and racial discrimination. His own delegation continued to support those objectives.

32. Recommendations by the Special Rapporteur that had already been approved by the General Assembly and the Commission should be translated into action, particularly in the fields of human rights education, acceptance of others and tolerance for the sake of peace. The Special Rapporteur must be allocated the resources he needed.

33. Mr. JOKONYA (Zimbabwe) said that, despite the major developments in technology and the mass media which had brought people closer together, there was a resurgence of xenophobia, racial intolerance and ethnic conflicts throughout the world. Hardly a day passed without racist incidents being reported, such as the deportation of Africans from various countries for no clear reason other than the colour of their skin, the murder of black people by white extremists and the torching of homes or churches, while those who should be protecting the victims stood by and watched.

34. The international community must band together to cut out the malignant tumour of racism. Efforts had, indeed, been made to do so, but they had not always been successful or effective. His delegation thus supported the convening of a world conference on racism to settle the problem once and for all. Such a conference should devise specific measures to curtail the current manifestations of racism and spell out medium- and long-term plans to ensure that racism was deprived of the environment in which it could thrive.

35. The crucial Programme of Action of the Third Decade could succeed only if it had adequate financing, and serious consideration should be given to increased funding from the United Nations regular budget. The international media should assist in the fight against racism by barring the communication of racist sentiments, views and ideas.

36. Mr. IRUMBA (Uganda), having paid tribute to the Special Rapporteur whose report had highlighted the continued existence of racism and the concerted action that the international community should take, said that there had been a resurgence of propaganda aimed at inciting racial and ethnic hatred, with the result that minorities and migrant workers had been subject to physical attacks and other inhumane treatment, mainly on account of their colour or ethnic group, the worst examples being the genocide in Rwanda and the former Yugoslavia.

37. Economic and social upheavals, the massive influx of asylum-seekers and the aggressiveness of right-wing organizations had been given as explanations for the outbreak of xenophobia. While they might be contributory, it was regrettable that the measures adopted to address the problem had also engendered racism by making it appear that the victim was the cause of the problem. Racism could not be solved by developing a siege mentality against ethnic groups or races perceived as undesirable.

38. In view of the "growing ... tolerance of racist speech" and the "support by fringe populations of political parties conveying messages of racial superiority and incitement to racial hatred", mentioned in the report of the United Nations seminar on the subject (E/CN.4/1997/68/Add.1), all countries needed to take concerted action to combat racism and xenophobia. The Programme of Action for the Third Decade provided the framework and should be accorded the highest priority. It was disappointing, therefore, that support and financial resources had not been forthcoming. Only one seminar had been held on the issue since 1993 and the future prospects of the Programme remained bleak.

39. Very few of the activities planned for 1994-1997 were likely to be carried out unless there was supplementary financial help. His delegation therefore supported the proposal that the Programme should be funded from the United Nations regular budget. It also supported the proposal that an international conference to combat racism should be held.

40. Mr. ZIARAN (Observer for the Islamic Republic of Iran) said that the notion of white supremacy had again given rise to a resurgence of racism in the West. The reports of the Special Rapporteur clearly illustrated the horrors coloured people in the West had to live with on a daily basis. Racism had become deep-rooted in the West's police and justice system. Skin colour defined the extent of an individual's entitlement to human rights and fundamental freedoms. The reported cases of brutality, police intimidation and harassment, arbitrary arrest, death in custody, frame-ups, destruction of key evidence and a discriminatory application of the death penalty were shocking and, in most cases, the victims had little chance of legal redress.

41. The economic and social situation was even worse. Subtle forms of discrimination perpetuated the existing gap between whites and others, who

were often denied equal opportunities in education, employment and even housing. New legislation was enacted to restrict entry visas and access by coloured people to social services. In Israel, blood donations by blacks were discarded. Increasingly, politicians in the West associated themselves publicly with racist causes in an attempt to win votes from certain interest groups. That could lead to a legalization of racism and encourage far-right movements to go on the rampage with impunity.

42. There was a double standard on the part of the self-declared champions of the promotion and protection of human rights who preached good governance and democracy to other nations. His delegation thus strongly supported the Special Rapporteur's recommendation that a world conference on racism should be convened.

43. Mr. ULUÇEVIK (Observer for Turkey) said that the world once again appeared to be passing through an era in which subtle aspects of racism and xenophobia were sneaking into society and his delegation wished to know why. The Special Rapporteur's report contained a number of striking reasons that were of great importance to his country, whose citizens had constantly been victims of racism and xenophobia in Europe.

44. It was necessary to build social awareness to protect impressionable young people from racist ideas. Government agents who condoned or participated in racist activities should be subject to harsh penalties. Moreover, democratic institutions such as universities, professional associations and NGOs should combat racism by organizing seminars, public debates and other activities to expose the evils of racism and xenophobia. They should also encourage victims of those phenomena to lodge complaints and seek redress.

45. It was disturbing to note that the mass media had become a vehicle for spreading racist messages rather than combating them; the media should adopt regulatory mechanisms to reverse that trend. Since education was another effective means of combating racism, national educational systems should include in school curricula the history and consequences of racism.

46. He fully supported the work and the recommendations of the Special Rapporteur, who should be provided with adequate resources. His delegation would bear those considerations in mind when preparing a draft resolution on measures to combat racism and intolerance.

47. Lastly, he welcomed the European Union's declaration of 1997 as the European Year against Racism and agreed with the High Commissioner for Human Rights that the fight against discrimination should be given priority.

48. Mrs. MARKIDES (Observer for Cyprus) said that she was concerned about the findings contained in the Special Rapporteur's report (E/CN.4/1997/71) and supported the new procedure of the Committee on the Elimination of Racial Discrimination for identifying cases where urgent preventive action might be recommended. Her Government, which was fully committed to the promotion of tolerance and respect for diversity, complied with all of its obligations

under the Convention on the Elimination of All Forms of Racial Discrimination, had made the declaration provided for in article 14 of the Convention and had adopted measures to promote the objectives of article 7.

49. The people of Cyprus had, however, been subjected to racism and grave human rights violations for 23 years as a result of foreign occupation. One third of the population remained refugees in their own country, no information had yet been provided on the fate of missing persons, and Greek Cypriots in the occupied part of the country suffered intimidation, denial of access to education and medical care and attempts to eradicate all elements of the country's culture.

50. Mr. SERGIWA (Observer for the Libyan Arab Jamahiriya) said that, despite the international instruments on the elimination of racial discrimination, racist policies continued to be applied and racist practices continued to victimize millions of people. There had been xenophobic campaigns against immigrant workers and minorities in European countries and in the United States of America.

51. It was to be hoped, however, that the Special Rapporteur would show more impartiality in describing the phenomenon. His report (E/CN.4/1997/71) alleged that Arabs and Muslims displayed anti-Semitism. Islam was not, in fact, an intolerant religion and specifically recognized Judaism. Moreover, Arabs were themselves Semites. The Special Rapporteur's misuse of the term was evidence of partiality and ignorance, and the Commission should take care to use it correctly.

52. His country, whose legislation paid special attention to the principles of justice and equality before the law, had requested that a meeting on the Muslim, Christian and Jewish religions should be held, though it maintained its position concerning Israel, an intolerant State that pursued its aims through force and aggression. It was regrettable that the Special Rapporteur had not mentioned Israeli practices against the Palestinians.

53. The Centre for Human Rights should be given increased funding to enable it to conduct information activities to foster tolerance and understanding among different races, in the context of the Third Decade. Lastly, he reiterated the need to convene a world conference on contemporary forms of racism.

54. Mr. GALILEE (Observer for Israel) said that, unfortunately, there was no correlation between the amount of attention which the United Nations devoted to racism, and the results achieved. Nonetheless, its work in that sphere was important and should continue. Three years previously, the Commission's annual resolution on measures to combat contemporary forms of racism and related intolerance had mentioned anti-Semitism in both its preambular and operative parts, virtually the first time that the United Nations had recognized that anti-Semitism was a form of racism. As recently as 1993, the participants in the World Conference on Human Rights had refused to include any reference to anti-Semitism in the Vienna Declaration. While it was disturbing that the United Nations had apparently considered for so long that that form of racism could be overlooked or tolerated, the change of heart, though insufficient, was commendable.

55. It was disappointing that the Special Rapporteur had not expressed his own views in his report. Racism was not just a residue of colonialism or a form of prejudice against the nationals of developing countries. In carrying out his mandate, the Special Rapporteur should be guided by the Convention's reference to discrimination based on race, colour, descent or national or ethnic origin. For example, many racist anti-Semitic and anti-Israel sentiments had recently been expressed in France as a result of a debate on the Holocaust.

56. Lastly, his delegation reiterated its support for the work of the Special Rapporteur which, it hoped, would continue to be carried out in a comprehensive and fearless manner in all parts of the world.

57. Mr. ORFI (Observer for the Syrian Arab Republic) said that, despite the defeat of nazism in the Second World War, the triumph of the civil rights movement in the United States of America and the elimination of apartheid in South Africa, racism still existed and was taking on new forms. Arabs and Muslims had become the victims of efforts to distort their image and to create an artificial "clash of civilizations" between the Islamic and Western worlds. Civil society must reject confrontation and promote tolerance between cultures and peoples while, more particularly, non-Muslim peoples should learn that Islam was based on tolerance, justice and equality.

58. He appreciated the Special Rapporteur's efforts to fulfil his mandate with integrity and objectivity. In particular, part II, section D, of his report (E/CN.4/1997/71) rightly noted that the Western information media discriminated against Arabs by portraying them as terrorists. He hoped that the Special Rapporteur would devote more attention to racism and racial discrimination against Arabs. However, he wished that the report had been more balanced in presenting different viewpoints and that it had treated all types of racism and xenophobia equally.

59. The lengthy excerpts from an Israeli Government report on anti-Semitism (part II, section E) falsified the history and features of Islam. The reference to "Islamist and Arab anti-Semitism" was most surprising, since Arabs were themselves Semites. The Israeli Government's assertion that Muslims did not differentiate between Zionism and Judaism and that Muslim extremists were turning to the Koran as a primary anti-Jewish source was a complete distortion of the facts. The Koran did not instigate hatred of Judaism; on the contrary, it noted the common foundations of Islam and Judaism.

60. Mr. DIABIRA (International Federation of Human Rights Leagues) said it was regrettable that the Commission had not considered the Special Rapporteur's report on his visit to France and the recommendations it contained. An international fact-finding mission on the situation in France had found that the intolerable treatment of asylum-seekers violated international human rights law. As in many other Western European countries, asylum-seekers faced administrative obstacles, based on the assumption that their applications were unfounded, while deportation proceedings did not provide for sufficient appeals procedures. The adoption of the so-called Debré Act, which added to the legislative arsenal concerning the treatment of foreigners in France, had made the situation even worse.

61. The Special Rapporteur's recommendations, and those which his own organization had submitted to the French authorities, were still relevant. French immigration and asylum policy was badly in need of review. He called upon the Commission to conduct an in-depth analysis of the Special Rapporteur's report on France and to decide what action should be taken, and on the authorities of all European countries to end such serious violations of human rights and fundamental freedoms.

62. Ms. SPALDING (International Association of Educators for World Peace) said it was essential that all those working to combat racism should use every available means of educating the public, including the new electronic media. The importance of sport and light entertainment in educating people about racism should not be underestimated, particularly when the celebrations for the fiftieth anniversary of the Universal Declaration of Human Rights in 1998 were being planned.

63. Her Association had held two successful round tables in 1996, with the participation of various United Nations bodies and young people with direct experience of the impact of racism on all aspects of daily life, and another round table was to be held on the subject of the Internet.

64. Ms. CARBY-MUTAMBIRWA (International Youth and Student Movement for the United Nations), speaking also on behalf of 14 other non-governmental organizations,* said that, despite over two decades of concerted efforts, racism and racial discrimination were on the rise in most countries and openly racist political parties were increasing their electoral strength. The NGOs she represented were dismayed that Governments appeared to be losing interest in, and were unwilling to support financially, the Programme of Action for the Third Decade to Combat Racism and Racial Discrimination.

65. They called on the Commission to set a date for a world conference to combat racism, racial discrimination, xenophobia and other related contemporary forms of intolerance, as requested by the General Assembly. Governments, the United Nations and NGOs were united in the belief that such a conference, which should be held by 1999, would send a clear signal that the world community was determined to deal decisively with the scourge of racism, and would provide an excellent opportunity to develop specific strategies to combat racism and racial discrimination.

66. Mr. PUNJABI (Himalayan Research and Cultural Foundation) said the worst holocausts the world had witnessed had been the direct result of racist ideologies. Unfortunately, the lessons of history had not been learnt and there was a resurgence of racial discrimination and xenophobic practices. As the High Commissioner for Human Rights had pointed out, immigrants, refugees, minorities and indigenous peoples were seeing their fundamental rights flouted.

67. It was easier to trace the roots of racism than it was to track down the groups which promoted racist practices, but Governments must take steps to deal with those groups, or stand accused of covertly sponsoring terrorism by

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* The list of non-governmental organizations concerned appears as an annex to this summary record.

turning a blind eye. A case in point was Pakistan, where the Government was ignoring the plight of the Christian minority, whose homes had been set on fire and whose members had been assaulted.

68. Ms. NEURY (Centre Europe - Tiers Monde) said that a new form of discrimination dubbed "American apartheid", had been identified by a United States sociologist. It consisted of the gradual but very methodical residential segregation of blacks in new isolated housing projects in the centres of big United States cities. It was the duty of the Commission to examine that phenomenon, since social conditions affected the observance of human rights.

69. The use of the term "apartheid" was no exaggeration. In the first place, the existence of areas where the population was entirely black presented a situation in which racial groups led separate and parallel existences in geographical areas assigned to them, the very definition of apartheid. Secondly, there was evidence that the phenomenon was not due to purely social factors but to deliberate policies that had been adopted by white decision-makers at the national and local levels to control the racial composition of urban populations. Thirdly, some of the apologists for such policies had gone so far as to claim a biological basis for residential segregation.

70. Respect for economic and social rights depended on public finance; if the level of finance was reduced, in order to "liberalize" the economy, those rights suffered. Pacification by segregation could then be viewed as a way to manage the problems thus created.

71. The Commission should condemn those practices and call on the United States Government to investigate the matter and take the necessary action. The international community could not accept such segregation, particularly in a wealthy country, whose concern for individual and minority rights was well-known.

72. Ms. OLSTHOORN (Minority Rights Group) said that asylum-seekers from Africa and Asia were suffering from racial discrimination in western Europe, where they were likely to be portrayed as immigrants in disguise and discriminated against by the local population. The number of asylum-seekers in western Europe had fallen dramatically in the 1990s, partly as a result of unrealistic visa requirements and the legislation providing for airlines and other carriers to be fined for carrying passengers without documentation, which prevented asylum-seekers from reaching the frontiers of the countries concerned. European Union harmonization measures, which restricted the number of asylum-seekers still further, had often been agreed upon in an undemocratic manner behind closed doors.

73. Those asylum-seekers who eventually reached western Europe were often treated like criminals, facing restricted freedom of movement and long periods of detention. According to a recent survey by the High Commissioner for Refugees, the detention of asylum-seekers was on the increase in every western European country. In the United Kingdom, asylum-seekers spent longer in prison, often in worse conditions than criminals, than anyone else held under the Immigration Act.

74. The definition of a refugee in the 1951 Convention relating to the Status of Refugees was being interpreted in an increasingly restrictive way, with more and more asylum-seekers being allowed to stay on humanitarian grounds only, which limited their rights as refugees. They were also increasingly being returned to the country of first asylum, where they risked being forcibly returned to the country from which they had fled.

75. The western European countries should honour their international obligations to asylum-seekers and refugees, and also tackle the root causes of refugee flows, by developing long-term conflict-prevention strategies and acting to avoid crises and human rights violations that could lead to violent conflict and population displacement. The Commission should emphasize that the steps taken by the members of the European Union to harmonize policy on refugees should be subject to the democratic parliamentary process.

76. Mr. M.K. SINGH (India), speaking in exercise of the right of reply, said that his Government looked forward to a positive relationship with the Organization of the Islamic Conference (OIC) under the new leadership of Mr. Laraki. However, Mr. Laraki's comments on the internal affairs of India were ill-judged and would certainly not be endorsed by most OIC members. Support for the bilateral talks to be held between India and Pakistan was welcome, but any attempt at outside intervention in such a complex and delicate situation would not be conducive to peace in the region.

77. Mr. NAZARIAN (Observer for Armenia), speaking in exercise of the right of reply, said he could not accept the reference by the Secretary-General of the Organization of the Islamic Conference, Mr. Laraki, to "Armenian aggression", when it was a well-known fact that the conflict was between the defence forces of Nagorny Karabakh and the regular army units of Azerbaijan. Mr. Laraki had also exaggerated the number of displaced persons and refugees in Azerbaijan, without mentioning that 600,000 Armenians had also been uprooted. Such inaccurate information could seriously damage the peace process, which had just reached a new stage with the meeting of the Minsk Group in Paris.

The meeting rose at 5.55 p.m.

Annex

List of non-governmental organizations sponsoring the statement by the International Youth and Student Movement for the United Nations

African Association of Education for Development

Baha'i International Community

Christian Life Community

International Federation of Jewish Women

International Federation of University Women (IFUW)

International Movement against All Forms of Discrimination and Racism

Movement against Racism and for Friendship among Peoples

Women's International Democratic Federation

Women's International League for Peace and Freedom

World Alliance of Young Men's Christian Associations (YMCA)

World Association of Girl Guides and Girl Scouts (WAGGGS)

World Federation of Democratic Youth (WFDY)

World Federation of United Nations Associations

Human Rights Commission of Pakistan